

ORDINANCE NO. 1793

CITY OF LEXINGTON, NEBRASKA

AN ORDINANCE TO AMEND SECTION 21-2 OF THE LEXINGTON CITY CODE, ADOPTING THE NEBRASKA CIVIL SERVICE ACT; TO ADOPT PROCEDURES REQUIRED BY THE NEBRASKA CIVIL SERVICE ACT; TO REPEAL ORIGINAL SECTION 21-2 AND ALL OTHER ORDINANCES OR SECTIONS OF ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE AND PUBLICATION IN PAMPHLET FORM.

WHEREAS, Legislative Bill 372 of the 1985 Legislature, amending Nebraska Revised Statutes, Section 19-1801 to 19-1823, known as the Civil Service Act, requires the City to establish procedures for disciplinary actions against employees subject to the Civil Service Act, and also to provide procedures for investigation.

BE IT THEREFORE ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA, AS FOLLOWS:

Section 1. That Section 21-2 of the Lexington City Code is hereby amended to read as follows:

Section 21-2. Same -- Adoption by Reference of Certain State Law.

Sections 19-1801 to 19-1823 of the Reissue Revised Statutes of Nebraska, 1943, as amended by Legislative Bill No. 372 of the 1985 Legislature, and as further amended, known as the Nebraska Civil Service Act, shall so far as applicable be a part of this article and by reference is incorporated in this section.

Section 2. Whenever the City Manager shall determine that there is cause for discipline of any fulltime police officer for reasons specified in the Nebraska Civil Service Act, the City Manager shall notify such employee in writing of the factual basis for such discipline, the possible actions to be taken, and a time and place for a pre-termination hearing. At such hearing, the employee shall have an opportunity to meet with the City Manager and the chief supervising officer of

the police department, and shall be given an opportunity to respond to written allegations. After such pre-termination hearing, the City Manager, in his sole discretion, shall determine what, if any, discipline is to be imposed.

Section 3. If the City Manager shall determine that there exists cause as defined by Section 19-1807, R.R.S. 1943, as amended, the discipline to be imposed may include removal or discharge from employment, suspension with or without pay, demotion, reduction in rank, deprivation of vacation, benefits, compensation, or other privileges, except suspension benefits.

Section 4. Upon determination of grounds for discipline and the discipline to be imposed, the City Manager shall notify the officer by written accusation of the disciplinary action imposed, and the factual basis for such disciplinary action. Such written accusation may be delivered to such employee by the City Manager or his designated agent, or if the whereabouts of such employee are unknown, such accusation may be mailed to his last known address.

Section 5. A citizen may make a complaint against a fulltime employee of the police department by delivering a written complaint, signed and dated, to the City Manager. The City Manager shall cause a copy of such written complaint to be delivered to the Secretary of the Civil Service Commission. Within sixty (60) days of delivery of such complaint to the City Manager, the City Manager shall cause an investigation of such complaint and shall make a determination as to whether or not said complaint is meritorious. If a determination is made that the complaint is meritorious, the City Manager shall proceed to impose disciplinary sanctions. If the City Manager determines that said complaint is not meritorious, the Civil Service Commission shall be so notified, and the citizen shall further be notified in writing of the determination of the City Manager.

Section 6. In the event any citizen filing a complaint as described above determines that the action taken by the City Manager is incorrect or insufficient, the citizen may request a hearing before the Civil Service Commission. No later than ten (10) calendar days from the date of notice to the citizen of the action taken by the City Manager, the citizen may file with the Commission a written demand for a hearing; upon such request for hearing, the Commission shall notify the City Manager and the employee with respect to whom the complaint has been lodged. The Commission shall then hold a public hearing, where any interested party may appear and present evidence to the Commission. Such hearing shall be confined to a determination of whether or not the complaint is true, and whether such complaint justifies some type of discipline against the employee or employees. After such hearing, the Commission may either dismiss the complaint or may affirm the complaint and order such disciplinary action as provided by law. The procedures for such hearing shall be as established by the rules and regulations of the Civil Service Commission.

Section 7. Any permanent fulltime employee of the police department who is removed, suspended, demoted, or discharged by the City Manager, may, within ten (10) days after notice of such action file with the Civil Service Commission a written demand for an investigation. Upon receipt of such request for investigation, the Civil Service Commission shall set a time and place for a public hearing to be held not less than ten (10) nor more than twenty (20) days after the filing of such written demand for investigation, and notice of such public hearing shall be given to the accused. The Commission shall further appoint the City Attorney or other special counsel to serve as investigator for the Commission, and such investigator shall prepare evidence for presentation at the public hearing of the Civil Service Commission. Such investigator shall have authority to request the assistance of the City Manager and the police department in preparing evidence,

to examine all of the City Manager and police department files relevant to the issue, to have authority to issue subpoenas to appear before the Civil Service Commission, and to examine all personnel files and records of the accused. Investigation shall be confined to the question of whether the disciplinary action taken was made in good faith for cause.

Section 8. That original Section 21-2 and all other ordinances or sections of ordinances in conflict herewith are hereby repealed.

Section 9. That this ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED this 22nd day of October, 1985.

CITY OF LEXINGTON, NEBRASKA

Robert L. Hawks  
President of the Council

ATTEST:

Gene E. Malzahn  
City Clerk

