

ORDINANCE NO. 2020-1153

AN ORDINANCE OF THE CITY OF WISNER, NEBRASKA, PROMULGATING ADDITIONAL PROCEDURES REFERENCED IN CITY CODE SECTION 1-501 PERTAINING TO THE DISCIPLINE, REMOVAL, DEMOTION, OR SUSPENSION OF ANY CITY POLICE OFFICER, INCLUDING THE CHIEF OF POLICE; REPEALING ANY AND ALL ORDINANCES AND RESOLUTIONS CONFLICTING HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS Neb. Rev. Stat. § 17-107(3)(b), as amended, provides a city council should adopt by ordinance rules and regulations governing the discipline, removal, demotion, or suspension of any police officer, including the chief of police;

WHEREAS City Code § 1-501 already provides, “All police officers appointed by the mayor and council may be removed, demoted, or suspended at any time by the mayor as provided in Neb. Rev. Stat. § 17-107. A police officer, including the chief of police, may appeal to the council such removal, demotion or suspension with or without pay. After a hearing, the council may uphold, reverse, or modify the action”; and

WHEREAS the City Council deems it proper to establish and promulgate additional procedures, including the deadlines by which an appeal may be filed by the officer and should be decided by the City Council;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WISNER, NEBRASKA:

Section 1. Procedures for Police Officer Removal, Demotion, Suspension.

(A). Any decision of the Mayor pertaining to police officer removal, demotion, or suspension made pursuant to Neb. Rev. Stat. § 17-107, as amended, and City Code § 1-501, as amended, may be prompted by the written accusation of the chief of police, the Mayor him- or herself, or any citizen or taxpayer, and shall be provided by the Mayor or his or her designee to the officer in the form of a written notice by personal delivery or regular US mail to the officer’s last-known address.

(B). In the event the officer wishes to appeal the Mayor’s decision to the City Council, the officer shall file a written demand for an appeal hearing in the City Clerk/Administrator’s office within ten (10) calendar days of the date of the officer’s receipt of the Mayor’s written notice. In cases in which the Mayor’s written notice was mailed to the officer, the officer shall be deemed to have received the notice two (2) calendar days from the date it was mailed. Untimely requests for an appeal hearing will not be considered.

(C). The City Council shall schedule the appeal hearing to occur not less than ten (10) nor more than twenty (20) days after the filing of the written demand for

hearing. The City Council shall notify the officer of the hearing date by personal delivery or regular US mail no less than five (5) calendar days before the hearing is to occur.

(D). At the hearing, the police officer shall have the right to:

- (1). Respond in person to the written accusations and to otherwise be heard and present evidence;
- (2). Confront and cross-examine available adverse witnesses;
- (3). Be represented by counsel retained by the officer, at the officer's expense; and
- (4). Record the hearing, at the officer's expense.

(E). Not later than thirty (30) calendar days following the adjournment of the hearing, the City Council shall vote to uphold, reverse, or modify the action of the Mayor. The failure of the City Council to act within thirty (30) calendar days or the failure of a majority of the members of the Council to vote to reverse or modify the disciplinary action shall be construed as a vote to uphold the action. The decision of the City Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the Mayor's action was necessary for the proper management and the effective operation of the City Police Department in the performance of its duties under the statutes of the State of Nebraska.

Section 2. Any and all ordinances and resolutions and parts thereof in conflict herewith are repealed.

Section 3. This Ordinance shall become effective upon its reading, passage, and publication according to law.

Passed and approved this 15th day of June, 2020.

Mayor

ATTEST:

City Clerk/Treasurer