

ORDINANCE NO. 2419

AN ORDINANCE OF THE CITY OF YORK, NEBRASKA TO AMEND SECTION 2-454 OF THE YORK CITY CODE TO AUTHORIZE NOTICE TO BE SENT BY REGULAR MAIL DELIVERY; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH, AND TO PROVIDE AN EFFECTIVE DATE FOR THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF YORK, NEBRASKA:

Section 1. Section 2-454 shall be amended as follows:

Sec. 2-454 Disciplinary action procedure.

(a) No employee in the civil service who shall have been permanently appointed or inducted into civil service shall be removed, suspended, demoted or discharged except for cause and then only upon the written accusation of the police chief or fire chief, city administrator or any citizen or taxpayer.

(b) The written accusation shall set forth the alleged misconduct, charges, or grounds for investigation against the employee. The written accusation shall be filed by the complainant with the secretary of the commission, who shall cause a copy of such written accusation to be delivered within 72 hours after the filing to the police chief or fire chief, to the city administrator and to the employee personally or by regular mail delivery, addressed to the employee at the residence address of the employee shown in the personnel records. The secretary of the commission shall cause a return showing such delivery or mailing to be executed and filed in the secretary's office.

(c) The police chief or fire chief shall have the authority to immediately suspend, with pay, an employee against whom such written accusation has been filed, pending the confirmation of the suspension, or a decision of the city administrator to reinstate the employee, remove, demote, discharge, or suspend the employee, with or without pay.

(d) Prior to the decision of the city administrator to reinstate the employee or remove, demote, discharge or suspend the employee, with or without pay, the police chief or fire chief shall within a reasonable period of time investigate the alleged misconduct, charges or grounds against the employee and explain the basis of the employer's evidence to the employee and provide the employee an opportunity to present their version of the circumstances which resulted in the filing of the written accusation. If the chief's investigation reveals other misconduct, charges or grounds the chief shall amend the written accusation to include the other misconduct, charges or grounds by filing an amendment to the written accusation with the secretary of the commission, who shall cause a copy of such amended accusation to be delivered within 72 hours after the filing to the police chief or fire chief, to the city administrator, and to the employee personally or

by regular mail delivery, addressed to the employee at the residence address of the employee shown in the personnel records. The secretary of the commission shall cause a return showing such delivery or mailing to be executed and filed in the secretary's office. In the event that a police chief or fire chief is being disciplined, the city administrator shall follow the same procedures as are followed by the police chief or fire chief in disciplining employees under the Act. Upon completion of this procedure within a reasonable period of time, the police chief or fire chief shall recommend in writing to the city administrator that the alleged misconduct, charges or grounds set forth in the written accusation be deemed:

- (1) To be without merit;
- (2) To not warrant disciplinary action;
- (3) To warrant disciplinary action less severe than removal, demotion, discharge or suspension, with or without pay, such as an oral or written reprimand; or
- (4) To warrant removal, demotion, discharge or suspension, with or without pay.

(e) Within five calendar days after receiving the written recommendation of the police chief or fire chief, the city administrator shall decide to accept the recommendation of the police chief or fire chief, or shall decide that the alleged misconduct, charges or grounds for investigation against the employee set forth in the written accusation be deemed:

- (1) To be without merit;
- (2) To not warrant disciplinary action;
- (3) To warrant disciplinary action less severe than removal, demotion, discharge or suspension, with or without pay, such as an oral or written reprimand; or
- (4) To warrant removal, demotion, discharge or suspension, with or without pay.

The city administrator shall file a copy of their decision within three calendar days after receiving the written recommendation of the police chief or fire chief with the secretary of the commission, who shall cause a copy of such decision to be filed within 72 hours after the filing to the police chief or fire chief, and delivered to the employee personally or by regular mail delivery, addressed to the employee at the residence address of the employee shown in the personnel records. The secretary of the commission shall cause a return showing such delivery or mailing to be executed and filed in the secretary's office.

(f) Any employee so removed, suspended, demoted or discharged may, within ten calendar days after receiving written notice of the city administrator's decision, file a written demand for an investigation and public hearing by the civil service commission. The employee shall file the request for the hearing with the secretary of the commission and simultaneously send a copy of the request to the city administrator. The failure to file such a request with the secretary of the commission within ten calendar days of receipt of notice

of the action by the city administrator shall constitute a waiver of the employee's right to review by the civil service commission and the city administrator's decision shall become final.

(g) Within five calendar days of receipt of the employee's notice of appeal, the city administrator shall cause to be mailed or delivered the following notice to the employee and secretary of the civil service commission:

- (1) A statement of the charges;
- (2) The names of the witnesses who will be called on behalf of the city administrator and a general statement of the nature of their testimony;
- (3) Copies of the documents to be introduced.

(h) Within five calendar days of the filing of the written demand for an investigation and public hearing by the commission, the employee shall mail or deliver the following upon the city administrator and commission:

- (1) A response to the statement of the charges;
- (2) The names of the witnesses who will be called on behalf of the employee and a general statement of the nature of this testimony;
and
- (3) Copies of the documents to be introduced.

(i) Upon receipt of a written demand, the commission shall conduct an investigation. The commission may be represented in such investigation and public hearing by the city attorney if authorized by the city administrator. If the city attorney does not represent the commission, the commission may be represented by special counsel appointed by the commission for any such investigation and hearing. The investigation shall consist solely of a review of the written submissions of the city administrator and employee to determine whether any individuals or documents should be subpoenaed by the commission for the subsequent public hearing before the commission ultimately to determine whether the city administrator acted in good faith for cause. Good faith for cause shall mean that the action was not arbitrary or capricious and was not for political or religious reasons.

(j) The commission shall schedule a public hearing no less than ten nor more than 20 calendar days from the date of filing of the employee's written demand for an investigation. The commission shall notify the city administrator and employee in writing at least five calendar days prior to the date of the hearing of the date, time and place of the hearing.

(k) The city administrator shall be permitted to appear in person and by counsel and to present the administrator's case. The city administrator may present evidence by testimony and documents and shall be permitted to cross examine the employee's

witnesses. At the hearing, the employee shall be permitted to appear in person and by counsel and to present defense. The employee may present evidence by testimony and documents and shall be permitted to cross examine the witnesses called by the city administrator.

(l) The commission may affirm the action taken by the city administrator if such action is supported by a preponderance of the evidence. If the commission filed that the removal, suspension, demotion or discharge was made for political or religious reasons or was not made in good faith for cause, it shall order the immediate reinstatement or reemployment for such employee in the position or employment from which such employee was removed, suspended, demoted or discharged, which reinstatement shall, if the commission in its discretion so provides, be retroactive and entitle such person to compensation and restoration of benefits and privileges from the time of such removal, suspension, demotion or discharge.

(m) After the hearing, in lieu of affirming the removal, suspension, demotion or discharge, the commission may modify the order of removal, suspension, demotion or discharge by directing a suspension, with or without pay, for a given period and the subsequent restoration to duty or demotion in position or pay. No later than ten days after the hearing the commission shall certify its findings in writing to the employee and the city administrator who shall enforce them.

Section 2. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall take effect and be in full force and effect from and after its passage, approval and publication pursuant to law.

PASSED AND APPROVED by the York City Council this 15 day of January, 2026.



Barry Redfern, Mayor

ATTEST:


Amanda Ring, York City Clerk



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