

**ORDINANCE NO. 74-2020**

**AN ORDINANCE TO ESTABLISH CHAPTER 163, CIVILIAN REVIEW BOARD,  
OF THE CODIFIED ORDINANCES OF THE CITY OF REYNOLDSBURG**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF REYNOLDSBURG, OHIO:**

**§ 163.01 Intent**

The City of Reynoldsburg feels that it is important to maintain public safety and public confidence in law enforcement that allegations of misconduct against the public are being thoroughly investigated and evaluated by an independent board.

**§ 163.03 Citizen Review Board**

**A. Board Members**

1. The Civilian Review Board shall consist of nine (9) voluntary members who will be reflective of diverse regions and character of the community.
2. Each of the four (4) wards will be represented by one member, who shall be nominated by the ward councilperson. These four members will serve a two (2) year term.
3. The Mayor will nominate five (5) members. One (1) of the members must be a practicing attorney, one (1) member must have a law enforcement background but not active with the Reynoldsburg Division of Police, one (1) member must have a background in human resources, and at least two (2) members must be representatives a minority race or ethnicity in the City of Reynoldsburg as determined by the results of the most recent decennial United States Census. The minority members may be representatives of the same race or ethnicity.
  - a. "Law enforcement background" shall be defined as at least 5 years serving in a non-civilian capacity with a recognized law enforcement agency in the State of Ohio.
  - b. "Minority race or ethnicity" is defined as any race or ethnicity identified by the United States Census other than the racial or ethnic identity that represents a plurality, or highest percentage, of residents in the City.

4. Nominations shall be submitted to City Council, who shall vote on the confirmation of the nominee at the next scheduled City Council meeting. A simple majority vote is needed to confirm a nominee.
5. In the event a nominee fails to receive a majority vote, Council shall repeat the process with a new nominee until an appointment is confirmed by majority vote.
6. All appointees and sitting board members shall be residents of the City of Reynoldsburg, shall not be employed by the City or any of its authorities, shall not be a current member of the City Council, and shall serve without compensation. Board members may, however, be reimbursed for expenses incurred in the direct implementation of the Board's responsibilities. Persons appointed to the Board shall be fair-minded and committed to the efficient and effective operation of the Board.
7. In the event an appointee is confirmed to be a member of the Board they shall maintain their city residency in order to maintain the ability to serve as a member of the board. A member who ceases to be a resident of the city of Reynoldsburg shall no longer be eligible to be a member of the Board effective the day they move from the City. Any member planning to move from the City of Reynoldsburg shall notify the Board Chair of this intent.
  - a. Upon receipt of said notice, the Chair shall take appropriate action to notify all other board members, the Mayor, City Council, and the City Attorney that a vacancy exists on the Board.

B. Appointment of Members and Vacancies

1. Once a member's term is over, the council or the mayor will nominate another member at the first council meeting of the year. Members may be re-appointed for consecutive terms. Any new member must fulfill the qualifications and capacity of the departing member set forth in section (A)(2) and (3). Any continuing member must repeat the training set forth in Section 163.03(F).
2. Any of the following circumstances shall lead to a vacancy on the board:
  - a. Expiration of the member's term, death, or resignation of the member.
  - b. Removal by a majority of the Board for cause, upon notice and hearing, for neglect of duty or malfeasance in office. Neglect of duty and malfeasance in the office includes an unexcused absence of the member from three consecutive regular meetings of the Board; unexcused absence of the member from one-third or greater of the regular meetings of the Board over the course of the most recent twelve-month period; or combination of excused and unexcused absences of the member from a

sufficient number of meetings as to compromise the Board member's ability to faithfully and fully carry out the member's responsibilities to the Board and Reynoldsburg community; or failure to attend and satisfactorily complete the required training course within six months of the beginning of a member's service on the Board.

3. Vacancies during a term shall be filled in the same manner as original appointments for the unexpired term.
4. A Board member who desires to resign shall notify the Chair, the Mayor, and the City Attorney of the resignation. If the Board becomes aware of a circumstance giving rise to a vacancy, other than expiration of a member's term or notice of resignation as outlined above, the Board Chair shall notify the Mayor and the Clerk of Council as soon as possible.

### C. Officers

1. The Board shall select annually one member of the Board to serve as its Chair and one member of the Board as Vice-Chair.
  - a. Selection shall be through a majority vote of Board members, during a meeting that is open to the public.
  - b. No person shall serve more than two consecutive one-year terms in each position
2. Duties and Powers of the Chair
  - a. The Chair shall preside over all meetings of the Board and shall have the right to vote on all questions.
  - b. The Chair shall ensure that all municipal and state laws pertaining to the activities and rulings of the Board are faithfully executed.
  - c. The Chair shall act as the spokesperson in all matters pertaining to the Board.
  - d. The Chair shall sign all documents on behalf of the Board after approval by the Board.
  - e. The Chair shall perform such other duties and responsibilities imposed upon him or her by the Board.
3. Duties and Powers of the Vice-Chair
  - a. If at any time the Chair is absent from a meeting for any reason or is unable or unwilling to perform his/her duties, whether within a meeting or outside a meeting, the Vice-Chair shall perform all the duties of the Chair with the same force and effect as if performed by the Chair.

4. Chair Pro Tem

- a. If both Chairs are absent at any meeting of the Board and have not selected a Chair Pro Tem, the Board shall select a Chair Pro Tem who shall perform all the duties of the Chair for that specific meeting only.

5. City Clerk of Council

- a. The City Clerk of Council shall keep a true and correct record of all proceedings of the Board.

D. Attendance and Participation

1. Board members have a duty to use best efforts to attend all regularly-scheduled Board meetings.
2. Board members have a duty to use all reasonable efforts to attend any special, emergency, or other similar meetings that are not regularly scheduled.
3. If a Board member cannot attend a meeting or other function of the Board where official business will be conducted, the Board member must provide notice to the Board Chair and the Board's Administrative Coordinator as soon as possible. The Chair will have the discretion to classify absences as excused or unexcused.
4. An absence about which the Chair and the City Clerk have received advance notice of more than 72 hours will be presumed to be excused unless the Chair identifies emergency or other extenuating circumstances that warrant the absence being classified as an excused absence.
5. The City Clerk of Council will track all Board member absences in an electronic database.
6. Board members have a duty to be responsive to communications from the Board, other Board members, and the Board's staff, including but not limited to telephone, electronic, and other communications.

E. Budget

1. The Mayor shall oversee the budget on behalf of, and with guidance from, the Board.
2. The Budget for the Board shall be included in the annual budget for the City.

#### F. Training

1. Once members of the Citizen Review Board are appointed they shall have six (6) months to complete the Reynoldsburg Civilian Police Academy training program and, at minimum, a 4-hour "ride along" with an officer of the Division of Police.
2. The purpose of this training requirement is for each Board member to gain some experience and insight to the unique job functions of a law enforcement officer in the community.
3. If either of the training requirements are not available, for any reason, the Division of Police shall determine an appropriate substitute level of training.

#### G. Structure of Meetings

1. The structure of meetings shall be set by rules adopted by the commission, consistent with the Ohio open meetings laws.
2. The Board shall be scheduled to meet at least once a month. Meetings may be cancelled if there are no agenda items for discussion.
3. Special meetings of the Board may be held with at least seven (7) days notice consistent with the notice requirements of the City Charter.

#### H. Quorum and Voting

1. Two-thirds of members currently appointed to the Board shall constitute a quorum.
2. The affirmative vote of the majority of members present shall be required to carry a motion, proposal, or recommendation, unless provided otherwise in this Chapter.

### **§ 163.05 Authority, Jurisdiction, Duties, and Responsibilities**

- A. The Board has the power to receive, cause investigation of, and recommend resolution of any and all complaints filed with it alleging discriminatory conduct by officers and non-sworn employees of the Reynoldsburg Division of Police, regardless of their duty status, when such discriminatory conduct is directed toward any person who is not a Division of Police employee.
- B. "Discriminatory conduct" shall be defined as discrimination or bias directed toward any person who is not a Division of Police employee on the basis of that person's race,

color, sex, sexual orientation, gender identity or expression, religion, national origin, disability, ancestry, familial status or military status.

- C. The Board shall not have jurisdiction regarding complaints alleging discriminatory conduct by civilian employees of the Division of Police.

## **§ 163.07 Complaint Procedure**

### **A. Filing Complaints**

1. All complaints of the type referenced in Section 163.05 shall first be filed with the Division of Police, who shall investigate said complaint consistent with its policies and procedures, and consistent with any collective bargaining agreement by and between the City and the Fraternal Order of Police or the City and the Ohio Patrolman's Benevolent Association.
2. If the Complainant is not satisfied with the findings from the investigation conducted by the Division of Police, the Complainant may then file a complaint with the Board through the Clerk of Council. Such complaint must be filed, if at all, within thirty (30) days of receipt of notice of the findings of the Division of Police on the original complaint
3. The Chair of the Board is authorized to initiate investigation of those complaints upon receipt of the complaint.
4. The time limits set forth in the collective bargaining agreements between the City and the Fraternal Order of Police or the City and the Ohio Patrolman's Benevolent Association shall not be stayed during the time period in which the Board investigates, receives evidence, and issues a recommendation on any Complaint before it.

### **B. Initial Procedures**

1. Transmittal of Cases
  - a. The Division of Police shall provide access to the full investigative files of cases that will be considered, discussed, and/or adjudicated by the Board not fewer than two (2) weeks before the Board convenes to address the case.
  - b. The Division of Police will ensure that all Board members have full access to all investigatory materials related to the case while also ensuring that the police files will remain secure from inappropriate dissemination or disclosure. The Chair and the Division of Police will collaborate in the creation of a protocol which will ensure both

appropriate board access and the ability to maintain the necessary security for police files. This protocol will be subject to review and comment by the Board and will require adoption by a majority vote of the Board.

- i. Any case file records which would be exempt from disclosure under the Ohio Public Records Act shall not be included in the investigatory material provided to the Board.
  - ii. Any case file material that is subject to disclosure, but which includes information exempt from disclosure under the Ohio Public Records Act shall be redacted to exclude such information.
- c. The Division of Police case file shall the following, if available:
- i. A cover letter indicating what documents are in the file.
  - ii. The complaint.
  - iii. The allegations (or “charges”) that were (1) suggested by the face of the original complaint alone, and (2) any additional allegations or charges that surfaced during the course of the investigation of the complaint.
  - iv. The Division of Police recommendations and findings including relevant case law, statutes, and Reynoldsburg Division of Police General Policies and Procedure Orders.
  - v. Reports, including but not limited to incident reports, duty reports, and field reports.
  - vi. Audio, visual, or transcripts of interviews of witnesses or parties to the incident
  - vii. Internal Investigation investigator’s notes
  - viii. Body-worn camera or dashboard video and physical evidence in the investigation

## 2. Notice to Complainants

- a. Upon receipt of the Police File, the Board shall notify the Complainant and each subject Division of Police employee. The notice shall advise in writing that the Complaint will be considered by the Board; and contain an explanation of the process to be utilized by the Board.
- b. The notice shall state the date, time and location of the scheduled public meeting.
- c. Five days before the public meeting, the Board shall send another notification to the complainant and the respondent Division of Police employees.

- d. The Board shall use best efforts to contact the complainant and respondent Division of Police employees, including:
  1. Sending a letter via Certified United States Postal Service to the last known address of the Complainant.
  2. Providing written notice to the respondent employees through the subject officer's command staff or the respondent employee's supervisor.
  3. Electronic mail to the parties, when feasible.
  4. The Board shall make record of notices sent.

### C. Obtaining Evidence

1. The Civilian Police Review Board will review all documents regarding the complaint.
  - a. While reviewing the case file, Board members may request to obtain additional information, documents, or other evidence. All requests must be written and on the record.
  - b. Board members shall allow complainants or subject employees and/or their representative, if any, who are present to speak after the case is called by the Board and the allegations have been presented at the Board meeting.
  - c. Board members may ask follow-up questions of any person who had addressed the Board.
  - d. The subject employee shall not be required to give a statement to the Board nor be subject to subpoena for a personal appearance before the Board. If the subject employee exercises his/her right to make a statement, she/he shall be subject to questions by the Board only.
    - i. If the subject matter of the complaint involves allegations of criminal misconduct, the Chief of Police shall inform the employee that prosecutors will not be able to use his/her answers against him/her in subsequent criminal proceedings.
2. Subpoenas
  - a. Upon majority vote, the Board has the power to subpoena and require the attendance of witnesses, the production of documents, and/or the production of other papers pertinent to its adjudications; and shall have the power to administer oaths.
  - b. Prior to issuing any subpoena the Board shall notify the Mayor, the City Attorney and the Chief of Police.
  - c. Employees of the Division of Police shall not be subject to subpoena but the Division of Police shall, in good faith, comply with the provisions of Section 163.09(D)(3)(c).
    - i. If the subject matter of the complaint involves allegations of criminal misconduct, the Chief of Police shall inform the employee that



prosecutors will not be able to use his/her answers against him/her in subsequent criminal proceedings.

## **§ 163.09 Hearing Procedures**

### **A. Purpose/Scope of Hearing**

1. The Board shall hear each case during regularly scheduled meetings at which a quorum of members is present. The Board may hear more than one case during a scheduled meeting.
2. The purpose of this hearing is to review the case pursuant to the procedures set forth in this Chapter, in order to reach a recommendation for each allegation identified by the Board members during their review of the case, pursuant to Section 163.09(F)(2).
3. The hearings shall be open to the public but shall not be required to be recorded and broadcast on any medium by video.

### **B. Standard of Proof - Dispositions**

1. No finding with respect to an allegation of a case shall be sustained unless it is proven by a preponderance of the evidence that an act or omission is violation of a policy and/or procedure of the Division of Police.
2. For purposes of applying the “preponderance of the evidence” standard of proof, officer performance must be evaluated against the policy, procedure, or training that was in effect on the day that, or during the relevant time period during which, the incident occurred.

### **C. Presentation of the Division of Police Findings**

1. At the outset of the public hearing on a Complaint, the Division of Police, through a designated representative, shall present the findings of the internal investigation.
2. The Presentation of Findings shall consist of the following:
  - a. The Division of Police investigator who was assigned the case and completed the Division of Police investigator’s summary shall provide a list of the allegations investigated by the Division of Police, a summary of their investigation, and the Division of Police Administrator’s findings and conclusions to the Board. This summary will not necessarily inventory all evidence and investigatory material but should, at minimum, outline

the nature of the complaint, the nature of the allegations involved, and the material evidence and facts established by the investigation.

- b. Following the investigator's summary, Board members shall pose any questions they may have for the Division of Police relating to the investigation or the findings and conclusions.
- c. The Division of Police investigator is not subject to questioning by the Complainant or his representative.

#### D. Presentation of Evidence

1. The Complainant shall be entitled to be represented by legal counsel at the hearing and may, with or without the aid of legal counsel, present evidence, including the testimony of witnesses, in support of the Complainant.
2. The Board may, in its discretion, determine that evidence presented is not relevant to the Complainant, and, therefore, may exclude the same.
3. Testimony
  - a. In order to fulfill the Board's responsibility for the accurate collection of truthful testimony in official proceedings, it shall have the power to record testimony by videotape, audiotape and/or stenographic transcription.
  - b. All testimony given before the Board shall be given under oath.
  - c. The Division of Police shall cooperate with and make a good faith effort to accommodate the Board's request for police personnel to testify at such hearings regarding any specified matter under review. Any member who is on duty and called as a witness shall be released with pay in order to attend the hearing. Any member who is off duty and called as a witness shall be compensated in accordance with the provisions of the applicable collective bargaining agreement for court testimony. The calling of witnesses shall not unduly interfere with Departmental operations.
4. The City Attorney shall be present for the public hearing and may ask questions of witnesses and/or present evidence relevant to the Complainant.
5. The subject employee and/or her or his attorney or representative shall have the opportunity to confront and cross examine any witness who presents testimony before the Board.

#### E. Executive Session

1. Following the presentation of the cases, the Board may go into Executive Session. During discussions that occur in the Executive Session, no individuals or entities who are not either Board members, Board staff, or the duly elected City Attorney may be present in the room unless invited by the Board. The

Board may invite the Division of Police Administrator designee to remain during executive session discussions on cases in order to provide advice and consult.

2. The Board's discussion shall address the following questions:
  - a. Findings and evidence that tend to support the Division of Police recommendation;
  - b. Findings and evidence that tend to not support the Division of Police recommendation;
  - c. The relevant case law, statutes, and the Division of Police policies, procedures, and training;
  - d. Whether the Division of Police investigation tends to support the allegation by a preponderance of the evidence. The "preponderance of the evidence" means that, based on all of the evidence, it is more likely than not that a violation has occurred;
3. When the City Attorney determines that the questions in Section (E)(2) have been discussed in their entirety, the City Attorney shall instruct the Board members to end the executive session and return to public session.
4. Upon completion of deliberation of one case, the Board shall consider all other cases on the meeting's agenda.

#### F. Adjudication of Cases

1. After consideration of all cases identified prior to the meeting on the meeting Agenda, the Board shall move into the voting process. The Board shall move from the Executive Session back into a regular, public session only (1) upon completion of consideration of all issues presented in the Hearing for all cases on the meeting's agenda, and (2) upon motion by the Chair or another Board Member.
2. Categories of Dispositions: The Board shall vote on a recommendation of one of the following findings for each allegation:
  - a. Sustained: Preponderance of the evidence supports a finding that the alleged conduct occurred and the officer's actions were inconsistent with law or the Division of Police policy, procedure, or training. A complaint may be "sustained in part" if the investigation revealed sufficient evidence to support a finding of a policy violation on one or more, but not all of the complainant's allegations. A complaint may also be "sustained for a violation not based on original complaint" if the investigation reveals evidence of misconduct that was not included in the complainant's original allegation but arose out of the incident that is the subject of the complaint.

- b. Exonerated: Preponderance of the evidence supports a finding that the alleged conduct occurred but the officer's actions were consistent with law or the Division of Police policy, procedure or training.
  - c. Unfounded: Preponderance of the evidence supports a finding that the alleged conduct did not occur.
  - d. Insufficient Evidence: Preponderance of the evidence fails to establish whether or not the conduct occurred.
3. Standard of Disposition: The Board shall apply the "preponderance of evidence" standard of proof, set forth in Section (B), to each and all of the allegations identified in the investigative file.
4. Voting
- a. Disposition votes shall be public.
  - b. Decisions of the Board shall be made by majority vote.
  - c. In the event of a tie vote, the Board will return to the executive session to deliberate further. If a majority vote cannot be achieved, the Board will recess the case until its next meeting and deliberate anew.

G. Recommendations: The Board shall make no recommendation regarding potential discipline with regard to a "Sustained" finding.

H. Final Summary

1. The Board Chair, in consultation with the City Attorney and consistent with the recommendation of the Board, shall prepare a Final Summary with respect to each case or matter under consideration, which shall be presented for approval at the next scheduled Board meeting.
2. The Final Summary shall include the Board's disposition and a brief outline of the evidence that the Board concluded tended to support the disposition and/or recommendation. If the Board's recommended disposition departs from the Division of Police's recommended disposition, the Final Summary shall also include a written justification for the departure.
3. Any member who does not concur with the recommendation of the Board may prepared a separate dissenting summary for review and consideration at the next scheduled meeting of the Board.
4. If the Board issues a Final Summary with a "sustained" finding, such finding shall have no binding effect on the Division of Police or Mayor. If the Mayor and the Division of Police, upon receiving and reviewing the Final Summary, determine that there has not been a violation of an established policy or procedure or are unable to take further action due to the time limits imposed

by the applicable collective bargaining agreement, the Final Summary shall not be included within a subject employee's personnel file.

### **§ 163.11 Post-Hearing Procedures**

#### **A. Notice to Complaint and Subject Division of Police Employee**

1. Upon completion of every hearing, the Board shall notify the Complainant and each subject the Division of Police employee. The notice shall contain written notice that the complaint was considered by the Board and the date of that hearing; and an explanation of the process utilized by the Board.
2. The notice shall include:
  - a. The nature of the Board's conclusions and recommendations.
  - b. An explanation of the evidence that both tended to support and tended not to support the conclusion.
  - c. Information on whether there will be further proceedings related to the complaint, such as referral of the matter to the Chief of Police or the Mayor.
3. The Board shall use best efforts to contact the Complainant and subject employees, including:
  - i. Sending a letter via United States Postal Service to the last known address of the complainant;
  - ii. Providing written notice to the subject employees through the subject officers' command staff or the subject employee's supervisor; and
  - iii. Electronic mail to the parties, when feasible.
4. The Board shall make record of notices sent and keep the Board advised of its actions in that regard.

#### **B. Form of Advice and Recommendation**

1. After the conclusion of each case hearing the Board shall give a completed case file of their findings to the Mayor, the City Attorney, and the Chief of Police.
2. The written case file shall include the Final Summary, a written statement of their decision, and all evidence found.

**§ 163.13 Severability**

- A. Should any section, clause, or paragraph of this Chapter be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the chapter as a whole or any part thereof other than the part declared invalid.
- B. Should any section, clause, or paragraph of this Chapter be in conflict with any written collective bargaining agreement by and between the City and the Fraternal Order of Police or the City and the Ohio Patrolmen's Benevolent Association, the terms of the collective bargaining agreement at issue shall control.

SECTION 1. Upon adoption by Council, this Ordinance shall be in effect thirty days following the signature by the Mayor.

Passed this 12<sup>th</sup> day of October, 2020.

Leanora Jenkins

Leanora Jenkins, Council President

ATTEST:

Mollie Prasher  
Mollie Prasher, Clerk of Council

APPROVED:

Joe Begeny  
Joe Begeny, Mayor

DATE

10/12/2020