

Introduced by:

AN ORDINANCE AMENDING ARTICLE V OF CHAPTER 2 BY THE ADDITION OF A NEW ARTICLE AND SEVERAL SECTIONS PERTAINING TO THE ESTABLISHMENT AND FUNCTIONS OF THE CIVILIAN REVIEW BOARD

Whereas, Section 590.653 R.S.Mo. provides, “1. Each city, county and city not within a county may establish a civilian review board, or may use an existing civilian review board which has been appointed by the local governing body, with the authority to investigate allegations of misconduct by local law enforcement officers towards members of the public. The members shall not receive compensation but shall receive reimbursement from the local governing body for all reasonable and necessary expenses...2. The board shall have the power to receive, investigate, make findings and recommend disciplinary action upon complaints by members of the public against members of the police department that allege misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability. The findings and recommendations of the board, and the basis therefor, shall be submitted to the chief law enforcement official. No finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis for any such findings or recommendations.”

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FERGUSON, MISSOURI, AS FOLLOWS:

Section 1. Article V of Chapter of the Ferguson Municipal Code is hereby amended by the addition of a new Division and several new sections pertaining to the establishment and function of the Civilian Review Board and which shall state as follows:

CHAPTER 2	ADMINISTRATION
ARTICLE V	BOARDS, COMMISSIONS AND COMMITTEES
DIVISION 6	CIVILIAN REVIEW BOARD

Sec. 2-440. – Civilian Review Board Established.

There is hereby established a Civilian Review Board of the city, which shall be an advisory body with respect to investigations of complaints made against members of the Ferguson Police Department; the review and assessment of police department policies, procedures and training plans; the education of the public on policing and enhancing the police department’s relationship with the Ferguson community; and review of crime data, racial profiling data and complaint statistics to identify patterns and trends.

Sec. 2-441. - Composition; appointment.

A. The Board shall consist of nine (9) members, who serve for a term of three (3) years. The members shall be appointed as follows: (i) two residents from each of the City's three wards; and (ii) three at-large members who shall be residents, owners of a business within Ferguson, or religious leaders or teachers serving within Ferguson. In the event that the City provides police services, by contract, to another city, residents of that City may be appointed in lieu of the at-large appointments described above. The City Council shall strive to make appointments that reflect the diversity of the community.

B. The following persons are not eligible to serve on the Board: (i) current or past employees of the Ferguson Police Department; (ii) current City employees; (iii) any person convicted of a felony in this state or any other state; and (iv) the spouse of those ineligible persons listed above.

C. Members shall be appointed upon nomination and approval of the entire City Council.

Sec. 2-442. - Compensation.

Board members shall serve without compensation.

Sec. 2-443. - Members subject to removal.

Members of the Board shall serve at the pleasure of the city council and may be removed by a majority of the members of the city council upon notice to the member who is subject to removal and an opportunity for that member to address the city council. A member may be removed for the following reasons: (i) if a member no longer meets the qualifications of set forth in Section 2-441 of this Code; (ii) conviction of an offense of moral turpitude (conduct contrary to justice, honesty, modesty, or good morals); (iii) unexcused absence from three consecutive meetings and hearings; (iv) conduct constituting misfeasance, malfeasance and nonfeasance; (v) breach of confidentiality of personnel matters and records; and (vi) in accordance with other provisions of charter, ordinance and applicable law.

Sec. 2-444. - Rules of procedure.

The Board shall act in accordance with state law, the city charter and ordinances of the city. The Board shall act and conduct all proceedings in accordance with Missouri's Sunshine Law, Chapter 610, RSMo and the city's policy relating to open meetings and records. The Board may establish rules of procedure not inconsistent with any applicable law or ordinance.

Sec. 2-445. - Purpose of Board.

The mission of the Board is to foster respect, trust, cooperation and accountability between the Ferguson Police Department and the greater Ferguson community.

Sec. 2-446. - Duties and responsibilities.

The duties and responsibilities of the Board include:

1. The Board shall receive and review, make findings, and recommend disciplinary or other action upon complaints by members of the public against members of the police department that allege misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language, including but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability pursuant to Section 590.653 R.S.Mo.
2. The Board shall review, make findings, and recommend disciplinary or other action for a sampling of departmental investigations involving the use of force where a complaint was not made;
3. The Board's review of departmental investigations may include a review of all evidence relevant to the underlying misconduct complaint.
4. The Board's findings and recommendations shall be submitted to the Chief of Police and the City Manager.
5. The Board shall not make any finding or recommendation based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis for any findings or recommendations by the Board.
6. The Board shall develop and recommend a program to promote awareness throughout the Ferguson community about the options available for filing misconduct complaints and about the misconduct complaint process.
7. The Board shall periodically review and assess police department policies and procedures, as well as training plans, and make recommendations for modifications to policies, procedures and training.
8. The Board shall develop and implement ways to educate the public on policing and to assist in enhancing the police department's relationship with the Ferguson community.
9. The Board shall review crime data, racial profiling data, and complaint statistics to identify patterns and trends.
10. Members of the Board shall be available to serve on officer hiring and promotion panels; provided, however, that members of the Board serving on such hiring and promotion panels shall not participate in the review of complaints or complaint investigations.

Sec. 2-447. - Training.

Upon appointment and prior to participating in the review of complaints or complaint investigations, each member shall complete training as required by the City. Such training shall include, but not be limited to:

1. Privacy and Handling of Confidential Personnel Records and Matters
2. Police procedures, which may include ride-alongs with officers
3. Applicable state and local laws and ordinances
4. Other training as determined necessary by the City

Sec. 2-448. – Confidentiality of Records and Proceedings.

A. Upon appointment and prior to participating in any meeting, investigation, review or other function of the Board, each member shall acknowledge, in writing his/her understanding of the confidentiality of the records, matters and proceedings of the Board and the penalties for unauthorized disclosure of such information.

B. Upon appointment and prior to participating in any meeting, investigation, review or other function of the Board, each member shall execute a non-disclosure agreement with the City prohibiting the disclosure of any identifying information of persons involved in matters before the Board; any individually identifiable personnel records of city employees and applicants for employment, except the names, positions, salaries and lengths of service of officers and employees of the City; the circumstances and details of complaints and other matters before the Board provided that the Board may disclose statistics describing the general nature of the complaint such as “rudeness” or “excessive force”; and any other information which is deemed confidential or closed under any applicable law.

C In the event of disclosure of confidential records of information, members of the Board shall be subject to discipline, removal from office and sanctions, including monetary sanctions, and other action in accordance with Section 2-27.04 of Chapter 2 of this Municipal Code.

D. The City of Ferguson shall not indemnify or defend any member of the Board who discloses confidential records or information and is subject to claims, lawsuits, or other actions pertaining to such unauthorized disclosure.

Section 2. Upon establishment of the Board and to ensure staggered terms of office, the initial Board shall be appointed so that the three at-large members are appointed to an initial 1-year term, one member from each ward is appointed to an initial 2-year term, and the remaining members from each ward is appointed to an initial 3-year term.

Section 3. This Ordinance shall be in full force and effect from and after the date of its passage by the City Council.

1st reading: _____ 2nd reading: _____

PASSED BY THE CITY COUNCIL OF THE CITY OF FERGUSON ON THIS _____
DAY OF _____, 2016.

Mayor

Attest:

City Clerk