

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CREATING ARTICLE XII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE ESTABLISHMENT OF A CITIZEN REVIEW BOARD.

BY COUNCILORS GARDNER AND LARSON:

The city of Duluth does ordain:

Section 1. That Chapter 2 of the Duluth City Code, 1959, as amended is hereby amended by the addition of a new Article XII of Chapter 2 which reads as follows:

Article XII. Duluth Citizen Review Board.

Sec. 2-69. Created; membership.

There is hereby created a citizen review board to be known as the Duluth citizen review board, consisting of seven duly qualified members. The citizen review board shall be an advisory body to the police department and city council, for the purpose of fostering relationships and strengthening trust and communication between the police department and citizens of Duluth in furtherance of the best interests of the city and all of its residents.

Sec. 2-70. Appointment of members; oath; qualifications; training.

(a) The members of the citizen review board shall be appointed by the mayor, subject to confirmation and approval of the city council. Each member shall make and file with the city clerk an oath of affirmation as provided by Section 28 of the City Charter;

(b) In selecting persons for appointment, the mayor and city council shall endeavor to achieve a membership that is representative of the racial, cultural and geographic diversity of the city. To the extent possible, the mayor and council shall seek to appoint at least three people of color, ~~and three~~ two women and one person with law enforcement background to the board. The following criteria should be considered, but do not represent the

exclusive criteria for appointment:

(1) Nomination by community organizations, including, without limitation, the Duluth task force for improved community police accountability, connected to or representing sectors of the community where trust of law enforcement has historically been lower than in other parts of the community;

(2) A commitment to the principle of citizen involvement in the law enforcement process;

(3) An ability to be impartial and objective as demonstrated by the applicant's record of public leadership and community service;

(4) An ability to effectively communicate in verbal, written and electronic forms;

(c) The members of the board shall be residents of, or employed within, the city. Current employees of the city are ineligible to serve on the board. ~~Retired members of the Duluth police department or other law enforcement agencies may be considered;~~

(d) Training. In connection with the Duluth police department, the Duluth city attorney's office, and the Duluth task force for improved community police accountability, the city's human rights officer shall develop a training program for members of the board including, without limitation, the following subject areas: police use of force, police policies and procedures, the Minnesota Government Data Practices Act, the Peace Officers Discipline and Procedures Act, conflict of interest principles, and human rights. All new members, and any member reappointed for an additional term, shall complete the training program after appointment, but before being sworn in to assume their official duties.

Sec. 2-71. Term of office, vacancies.

Initial appointments to the citizen review board shall be as follows: two members for one year, two members for two years, and three members for three years. Should vacancies occur during any current term, such vacancies shall be filled by special appointment made by the mayor, subject to confirmation and approval by the city council. Such special appointees shall be appointed to serve only for the unexpired balance of the term for which they are appointed. Upon the expiration of any term for which a member is appointed, his or her successor shall be appointed for a period of three years. No member shall be appointed to more than two terms consecutively, and no person who has held the office for more than two years of a term to which another person was appointed may be appointed to serve more than one additional consecutive term.

Sec. 2-72. Removal.

Any member of the board may be removed as provided in Section 27 of the City Charter.

Sec. 2-73. Officers; quorum.

At the first meeting of all of its sworn members following completion of the training program required herein, the citizen review board shall elect a president and vice president. The secretary of the board shall be the city's human rights officer. The secretary shall have no voting power. A majority of the board membership then serving shall constitute a quorum for the transaction of business. Any meeting shall be adjourned in the absence of a quorum.

Sec. 2-74. Rules of conduct; meetings; records.

The citizen review board may make, alter and amend such rules and regulations for its government and the conduct of its business

as is consistent with the City Charter, this Code, other ordinance of the city, and state law. The board shall meet at least two times per year in quarters provided by the city within city hall, and meetings shall be open to the public as required by state law. The board shall keep an accurate record of all its proceedings.

Sec. 2-75. Powers and duties.

The board shall have the following powers and duties:

(a) In partnership with the police department, the board shall develop a process to independently receive complaints of misconduct by Duluth police offices alleging, without limitation, any of the following:

- (1) Excessive force;
- (2) Abusive language or attitude;
- (3) Harassment;
- (4) Discrimination in the provision of public services on the basis of race, color, creed, religion, ancestry, national origin, sex, disability, age, or sexual orientation;
- (5) Theft where the alleged victim is a private citizen;
- (6) Failure to provide adequate or timely police protection;
- (7) Retaliation for filing a complaint with the board or other police review authority;

(b) After final disposition of a complaint filed with the chief of police, including final disposition of any disciplinary actions or proceedings arising out of the complaint, the chief of police shall prepare, and the board shall review, a report of the final disposition which shall include, without limitation the following:

(1) A description of the investigative process and procedures used to reach the final disposition;

(2) Specific reasons supporting the final disposition;

(3) Any other information supporting the final disposition that the chief of police, in his or her discretion, deems appropriate for disclosure to the board, excluding:

(A) The name(s) of the complainant(s), police officer(s), or other witness(es), involved in the complaint;

(B) Data prohibited from disclosure under the Minnesota Government Data Practices Act or other applicable law or regulation;

(C) Information which, if disclosed, could compromise confidential sources, undercover police operations, or other ongoing criminal investigation;

(c) The board may review and make recommendations to the chief of police for improving:

(1) Police policies, procedures, and investigations of citizen complaints;

(2) Police/citizen interactions;

(3) Communication with sectors of the community where trust of law enforcement has historically been lower;

(d) The board shall have no authority to investigate complaints;

(e) The board shall have no authority to recommend or impose discipline;

(f) By the first day of February of each year, the board shall make and file a report of its transactions for the preceding year with the city council.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

CCREQ/ATTY NL:dma 4/30/2012

STATEMENT OF PURPOSE: The purpose of this ordinance is to establish a citizen review board as an advisory body to the police department and city council with authority to conduct post-disciplinary review of complaints against police officers and review and recommend improvements to police policies and procedures.