



# REQUEST FOR COUNCIL ACTION

## City of Greenville, South Carolina

Agenda Item No.

11b

**TO:** Honorable Mayor and Members of City Council  
**FROM:** John F. McDonough, City Manager

Ordinance/First Reading  Ordinance/Second & Final Reading  Resolution/First & Final Reading  Information Only

**AGENDA DATE REQUESTED:** December 14, 2020

**ORDINANCE/RESOLUTION CAPTION:**

ORDINANCE AMENDING CHAPTER 2, ARTICLE III, DIVISION 6 OF THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE AS IT RELATES TO THE PUBLIC SAFETY CITIZEN REVIEW BOARD (REVISED)

**SUMMARY BACKGROUND:**

The purpose of this Ordinance is to amend Chapter 2, Article III, Division 6 of the Code of Ordinances pursuant to the recommendations of the ad hoc Citizen Advisory Committee on Public Safety. This Ordinance also requests that the Public Safety Citizens Review Board revise its bylaws in a manner consistent with the amendments and present same to City Council for approval.

REVISED: Note Section 2-313(e) was amended during first reading on December 14, 2020.

**IMPACT IF DENIED:**

Chapter 2, Article III, Division 6 of the Code of Ordinances will not be amended.

**FINANCIAL IMPACT:**

N/A

**REQUIRED SIGNATURES**

Department Director \_\_\_\_\_

OMB Director \_\_\_\_\_

City Attorney Michael Pitts

City Manager John McDonough

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A N O R D I N A N C E

AMENDING CHAPTER 2, ARTICLE III, DIVISION 6 OF THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE AS IT RELATES TO THE PUBLIC SAFETY CITIZEN REVIEW BOARD

WHEREAS, the city of Greenville previously established a Public Safety Citizen Review Board which receives certain grievances from employment decisions involving the sworn members of the City’s Fire and Police Departments as well as citizen complaints concerning said agencies; and

WHEREAS, on June 22, 2020, City Council established the ad hoc Citizen Advisory Committee on Public Safety by way of Resolution Number 2020-17 (the “Advisory Committee”); and

WHEREAS, the Advisory Committee was charged, in part, with reviewing the City’s ordinances governing the Public Safety Citizen Review Board and recommending any changes that the majority of the Advisory Committee deemed appropriate; and

WHEREAS, the Advisory Committee has completed its work and issued a comprehensive report and recommendations to City Council on October 26, 2020; and

WHEREAS, the Advisory Committee recommended changes to Chapter 2, Article III, Division 6 of the Code of Ordinances of the City of Greenville (the “City Code”) as more fully set forth in Exhibit A attached hereto and made a part hereof; and

WHEREAS, City Council desires to adopt the recommended ordinance changes as reflected in the aforementioned Exhibit;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, Chapter 2, Article III, Division 6 of the City Code is hereby amended as reflected in Exhibit A. Further, City Council respectfully requests that the Public Safety Citizens Review Board revise its bylaws in a manner consistent with the amendments and present same to City Council for approval. This Ordinance shall become effective upon passage on the second and final reading.

DONE, RATIFIED AND PASSED THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

REVIEWED:

\_\_\_\_\_  
CITY MANAGER

## EXHIBIT A

## DIVISION 6. - PUBLIC SAFETY CITIZEN REVIEW BOARD

## Sec. 2-309. - Purpose.

- (a) The city council finds that the demands and challenges for ~~uniformed~~ sworn employees serving in the city police and fire departments are different from those of employees serving in other city departments. People engaged in law enforcement and fire suppression are subjected to danger more regularly and with less notice than other people in the work force. Ordinarily, ~~uniformed~~ sworn employees in the police and fire departments require training and certification under state law to perform their duties. They are organized in groups in which mutual support and chain of command are far more integral to the success of their individual responsibilities than is the case for employees in other departments. The characteristics of their organization and the authority vested in the departments can lead to abuses. Some abuses are those which the employees can sustain when the organizational structure and its practices perpetuate or cover inequitable treatment. Some abuses are those that less responsible ~~uniformed~~ sworn employees might inflict upon members of the public at large under the pretense of exercising their duly vested powers and responsibilities.
- (b) In these circumstances, there is merit in having independent citizens of good character and good judgment make conclusions after reasonable inquiry about general departmental practices and specific events which are brought to their attention. This division establishes the mechanism by which such inquires can be made and such conclusions can be reached in a way that protects the public interest and promotes the integrity of the city organization.
- (c) The city council further finds citizens will benefit from an independent board that is empowered to consider larger policy issues as they pertain to public safety and to hear specific concerns from the public at large concerning the public safety departments when those concerns are significant enough to warrant scrutiny and independent judgment.

## Sec. 2-310. - Public safety citizen review board.

There is established a public safety citizen review board to exercise the powers vested in it in accordance with the provisions of this division. The board shall receive and review internal complaints from ~~uniformed~~ sworn employees about policies, practices and procedures in the police department and fire department. The board shall also receive and review external complaints about ~~uniformed~~ sworn employees of the police department and fire department. ~~uniformed~~ sworn employees shall include all personnel who have been trained and certified in accordance with the general law of the state to exercise the authority of a law enforcement officer or a firefighter, regardless of whether they wear uniforms in the exercise of their duties on a regular basis.

Sec. 2-311. - Members and terms of office; ~~uniformed~~ sworn participants; required training

- (a) The board shall consist of seven voting members, selected by the city council for staggered terms of office of four years each. Each member must be a person who resides in the city, is at least ~~21~~21 years of age, and has sound judgment and good moral character. No member shall be the spouse, parent, child or sibling of any employee of the police department or fire department. The city council shall exercise care in its selection of members to maintain a total

membership that is reasonably representative of the city's ~~a cross section of a~~ diverse population.

- (b) In addition to the voting members, there shall be one nonvoting participant representative of the ~~uniformed~~ sworn employees from the police department and one nonvoting participant representative of the ~~uniformed~~ sworn employees from the fire department. Each participant shall be selected by the city manager after consultation with the chief of the affected department and other members of the department as deemed appropriate by the city manager. Each participant shall have at least five continuous years' experience with the department and no participant shall be the grade of lieutenant or higher. Each nonvoting participant shall be authorized to volunteer statements or to answer questions from the board during hearings and deliberations, but nonvoting participants shall not vote on actions taken by the board. Each nonvoting member shall be subject to disciplinary action for violating committee provisions of confidentiality.
- (c) As soon as practicable, but in no event later than six months from the date of appointment, each member shall participate in at least one ride-along with a police officer and complete training in the police department's use of force training simulator. As soon as practicable, but in no event later than one year from the date of appointment, each member shall complete the police department's citizen training academy. Failure to complete the foregoing shall result in automatic removal of the member from the board.

#### Sec. 2-312. - Meetings.

The board shall establish a regular schedule for meetings that occur no less than four times each year on a quarterly basis. The committee shall also make provision for special meetings as special needs arise. At each regular meeting, citizens shall be afforded an opportunity to address the board on matters within the board's jurisdiction pursuant to such reasonable rules as the board may adopt to ensure a balance between good order and the rights of citizens to be heard.

#### Sec. 2-313. - Complaints.

##### (a) *Internal complaints.*

- (1) Any ~~uniformed~~ sworn employee of the police department or fire department who believes that the policies and practices of that department result continually in acts of unfairness, or believes that on a single occasion, there has been an especially damaging impact, may file a written statement requesting the board to review those practices, or to address the circumstances of the single event. The ~~uniformed~~ sworn employee may, in the alternative, elect to petition through the grievance procedures otherwise applicable to employees in general, but the ~~uniformed~~ sworn employee cannot exercise both procedures. The complaint must specify what actions the employee has taken to seek a redress of the grievance internally and should say in what respects the department's internal procedures have not or will not address the problem.
- (2) The following complaints in ordinary circumstances shall not be addressed to the board:
- a. Annual employee evaluations.
  - b. Job assignments.
  - c. Amounts of compensation.

- (3) Notwithstanding the list of exclusions in subsection (a)(2) of this section, such items may be presented to the board for review when there is a compelling reason to do so and the employee describes succinctly how departmental procedures otherwise in place fail to evaluate properly the employee's circumstances.
- (b) *External complaints.* Any person who has a complaint about the conduct or statements of a ~~uniformed~~ sworn employee of the police department or fire department may initiate a complaint with the department, through the human resources department or directly with the board. All external complaints, regardless of how received, shall first be investigated by the affected department and the complainant shall be informed of the final departmental determination. If the complainant is not satisfied with the determination, he or she may seek further review by the board in accordance with the procedure outlined in this division. All final departmental determinations must inform the complaining person of this opportunity.
- (c) *Monitoring of body worn camera (BWC) compliance.* The police department shall provide a list of all complaints, whether internal or external, alleging a sworn officer's failure to follow the department's body worn camera policy.
- (d) *Promotion of the complaint and appeals process.* The external complaint and appeals process shall be prominently featured in all public notifications and promotion of the board and its mission, including, but in no way limited to, notification and promotion on the city and police department websites.
- (e) *Periodic reporting to the board.* The police and fire departments, in coordination with the human resources department, shall log and track (with a sequential numbering system) all external complaints alleging misconduct or the failure to follow applicable department policy which is lodged against any sworn police officer or firefighter, along with the disposition of each such complaint. A representative of the police and fire departments shall provide a summary report to the board at each regularly scheduled meeting and respond to any reasonable question or concern raised by the board with respect to said complaints. In addition, the board shall have reasonable access to the underlying file materials ~~upon a majority vote of the board,~~ subject at all times to the protections of subsection 2-314 (g).

Sec. 2-314. - Powers of the commission board.

- (a) Upon receipt of a complaint and the final agency determination made without undue delay, the board may undertake an inquiry through its own membership, or through city staff from outside the police or fire departments, or through some combination of those resources to determine the accuracy of the facts and circumstances set forth in the complaint. Upon completion of the inquiry, the board shall summarize its findings and recommended actions and shall submit those to the complaining employee or to the complaining member of the public, and shall submit the same findings and recommendations to the chief of the affected department and to the city manager. The chief and the city manager may designate one or more persons to receive and assess such reports and recommendations on a regular basis.
- (b) In exercising its duties under subsection (a) of this section, the board shall have access to all reasonably relevant personnel records or records related to personnel, except to the limited extent such access is specifically precluded by state or federal law. Personnel records which are not relevant shall not be made available. The board shall have access to records and files kept in the ordinary course of departmental operations. The board shall have access to other investigations and inquires within the department and relevant to the inquiry before the board. Any assertion by a department head or a person keeping the records to be provided that their

disclosure to the board would breach confidentiality of highly personal information, threaten public security, or harm an ongoing investigation shall be resolved by the city attorney.

- (c) The board shall have the authority to summon for interview any city employee, other than the city manager, the city attorney or members of their immediate office staffs. Nor shall the elected officials of the city be subjected to a summons from the board. The board has authority to invite for interview any member of the public having knowledge of the facts. The conversations may be held in private to the full extent otherwise permitted by law. The board may delegate one or more members to conduct private interviews, provided their meetings and discussions occur in compliance with state law. The board or delegated board members may hold such conversations in private without notifying the chiefs or supervisors within the respective departments.
- (d) The board on its own may initiate its own inquiry into established practices of the respective departments, or into the facts giving rise to a specific occurrence, provided the board first delivers to the city manager a written statement of its intent to do so. Upon completion of such inquiries, the board shall make a summary of its findings and present them along with any recommendations to the city manager.
- (e) The board may request legal services from the city attorney.
- (f) The board may from time request appearances before city council for purposes of discussing items or interest or concern related to the management or operations of the police department or fire department. Such appearances may be in open session or closed session to the extent permitted or required by applicable law.
- (g) Information which is lawfully classified as confidential and which is received as confidential information by the board shall not be disclosed, directly or indirectly, by board members to media representatives, other members of the public, or to employees. Nothing in this subsection shall preclude the disclosure of all relevant information to the extent necessary or appropriate by the committee in its reports to the chiefs and the city manager.

Sec. 2-315. - Retaliation prohibited.

- (a) No chief, supervisor or coworker of a complaining employee shall retaliate, directly or indirectly, in any manner against the employee who exercises rights under this division or who makes statements to the board or its delegated member or representative.
- (b) No ~~uniformed~~ sworn employee of the police department or of the fire department shall retaliate, directly or indirectly, in any manner against any complaining person who is part of the general public for having submitted a complaint or report to the board.
- (c) Any violation of this section shall be a basis for disciplinary action, including dismissal.

Secs. 2-316—2-330. - Reserved.