

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, REPEALING EXISTING CHAPTER 1, ARTICLE 25, AND ENACTING IN ITS PLACE CHAPTER 1, ARTICLE 25 OF THE CODE OF THE CITY OF LAWRENCE, KANSAS, 2018 EDITION AND AMENDMENTS THERETO, PERTAINING TO THE COMMUNITY POLICE REVIEW BOARD.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

SECTION 1. Chapter 1, Article 25 of the Code of the City of Lawrence, Kansas, 2018 Edition and amendments thereto, is hereby repealed in its entirety, it being the intent of the Governing Body that Section 2 of this Ordinance supersede it.

SECTION 2. The Code of the City of Lawrence, Kansas, 2018 Edition and amendments thereto, is hereby amended by adding Chapter 1, Article 25, which reads as follows:

ARTICLE 25. COMMUNITY POLICE REVIEW BOARD

1-2501 **ESTABLISHMENT OF THE COMMUNITY POLICE REVIEW BOARD.**

The Governing Body finds that, in order to advance the health, safety, and welfare of the community, it is in the best interests of the community to improve and to promote positive community-police relations within the City of Lawrence, Kansas. To those ends, the Governing Body hereby establishes the Community Police Review Board. The Community Police Review Board shall serve at the pleasure of the Governing Body.

1-2502 **DEFINITIONS.**

Unless the context clearly indicates otherwise, the following words, terms, and phrases, when used in this Article, shall have the following meanings:

- (a) **Board** shall mean the Community Police Review Board.
- (b) **Chief** shall mean the Chief of Police or any person fulfilling the role of the Chief Police.
- (c) **City** shall mean the City of Lawrence, Kansas.
- (d) **Community Member** shall mean any member of the public.
- (e) **Complaint** shall mean any Community Member's expression of dissatisfaction with Law Enforcement Action, however presented, **(i)** that contains an allegation that, if proved to be true, would be a violation of the Kansas Racial and Other Bias-Based Policing Act of 2000, codified as amended at K.S.A. 22-4606 *et seq.*, a violation of City ordinance, rule, or regulation, or a violation of Department policy, and **(ii)** where the Community Member has not, at any time, voluntarily opted out of the Board's review under this Article.
- (f) **Department** shall mean the City of Lawrence, Kansas, Police Department.

- (g) **Law Enforcement Action** shall mean any action where a member of the Department, while acting in the course of employment, communicates, engages, or has any direct involvement with a Community Member. Such Law Enforcement Actions include all ranges of community-police interaction, from the least intrusive (voluntary or social contacts) to the most intrusive (seizures or arrests), and shall include those law enforcement actions defined at K.S.A. 22-4609, as amended.
- (h) **OPA** shall mean the Department's Office of Professional Accountability or any department, office, or person fulfilling that role, however designated.
- (i) **Racial or Other Bias-Based Policing** shall mean the unreasonable use of race, color, age, ancestry, sexual orientation, disability, ethnicity, national origin, gender, gender identity, religion, socioeconomic status, or houselessness in deciding whether to initiate a Law Enforcement Action. It is not Racial or Other Bias-Based Policing when one of the foregoing factors is used, in combination with other identifying factors as part of a specific description of a person, to initiate a Law Enforcement Action.

1-2503

PURPOSE OF THE BOARD.

The purpose of the Board is first to advise and assist the City and the Department in policy development, education, community outreach, and communications in order to reduce the number of Law Enforcement Actions that lead to Community Member Complaints. Second, the Board may provide an independent, accessible, and efficient means through which a Community Member may submit a Complaint in a confidential manner. Third, the Board shall review all Community Member Complaints and all completed investigations of Community Member Complaints conducted by the Department. Fourth, the Board shall perform such other related tasks or duties as may, from time to time, be requested by the Governing Body.

1-2504

SPECIFIC DUTIES OF THE BOARD.

- (a) The Board shall:
 - (1) Review Department policies and make recommendations to the Chief for the amendment of those policies or the adoption of additional policies in order to promote positive community-police relations.
 - (2) Review the Department's annual training and, if necessary, suggest substitute or additional training in order to promote positive community-police relations.
 - (3) Assist the Department with community outreach opportunities in order to promote positive community-police relations.
 - (4) Conduct, annually, at least one Board-sponsored, community-wide forum to promote and to achieve continuous improvement in community-police relations.

- (5) Advise the Governing Body, the City Manager, and the Chief about community concerns regarding Law Enforcement Actions.
- (6) Receive from the Department two annual reports no later than July 31 of each year.
 - (A) One report shall be the Kansas Racial and Other Bias-Based Policing report required by K.S.A. 22-4610 and it should be presented to the Board prior to its submission to the Kansas Attorney General. At a minimum, that report shall contain all information and data required by K.S.A. 22-4610(d)(2), as amended.
 - (B) The second report, regarding all Community Member Complaints of the preceding year, shall include, at a minimum, the number of Community Member Complaints submitted, the number of Community Member Complaints submitted subdivided by type, a summary of the facts underlying each Community Member Complaint, and the outcome, resolution, and disposition of each Community Member Complaint.
- (7) Request from the Department, from time to time, as it deems it necessary to the performance of its duties, additional reports or information from the Department. The Department shall respond to all such requests within a reasonable time and may, after consultation with the Board, establish or extend a deadline for the submission of such report or information.
- (8) Report to the Governing Body, from time to time, regarding its activities, including an annual report to be presented to the Governing Body at the first regularly scheduled meeting of the Governing Body following July 31 of each year.
- (9) Review and render advice on such other matters related to Community Member Complaints and Law Enforcement Actions as are assigned to the Board by the Governing Body, City Manager, or the Chief.
- (10) Receive Community Member Complaints directly from Community Members. A copy of any such Complaint shall, within three business days of the Board receiving the Complaint, be forwarded to OPA for investigation.
- (11) Receive Community Member Complaints submitted to the Department. The Department shall, within three business days of receiving a Community Member Complaint, forward a copy to the Board.

- (12) Provide, as soon as may be practicable, to the Community Member making the Complaint, a notice acknowledging the Board's receipt of the Complaint, regardless of how that Complaint is received. The Board may direct City Staff to provide such notice.
 - (13) Maintain the confidentiality of all Community Member Complaints, however received.
- (b) The Board shall conduct a preliminary review of each Community Member Complaint, which review shall take place in Executive Session in accordance with K.S.A. 75-4319. If the consensus of the Board is that the Community Member Complaint is such that it cannot be investigated properly, the Board may return to the open meeting and vote to direct a member or members to request from the Community Member making the Complaint a more definite statement in whatever medium will be most effectual. Any such statement shall be forwarded to the Department or to OPA to be appended to the Community Member Complaint.
- (c) Within a reasonable time after completion of any investigation of a Community Member Complaint, the Department or OPA shall forward to the Board, for its review, the results of the investigation, including the investigation file. The Board shall conduct an independent review of the investigation. Such review shall be confidential and shall take place in Executive Session in accordance with K.S.A. 75-4319. During its review of a Department or OPA investigation of a Community Member Complaint, the Board shall be provided a copy of the Department or OPA investigation file, in its entirety, except that information included in that investigation file may be redacted to protect confidential information, where disclosure of such information is prohibited by law.
- (1) Effort shall be made to provide as much information as possible to the Board in its review of the Department's or OPA's completed investigation of a Community Member Complaint. In addition to the documentary file, if available, audio and video records shall be provided in full, unless redaction is necessary to protect the disclosure of confidential information, where disclosure of such information is prohibited by law. If said redaction cannot be accomplished, the City Attorney or designee, shall cause a written summary of the recording to be made.
 - (2) Permitted redactions under subsection (c)(1), *supra*, include the following: criminal history record information; criminal investigation records, as identified at K.S.A. 45-221(a)(10), as amended; information pertaining to juveniles; information pertaining to victims of domestic violence or any sexual crime; information protected by the Health Insurance Portability and Accountability Act of 1996 (HIPAA); treatment records, including medical, psychiatric, psychological, alcoholism or drug dependency treatment records; unexecuted search warrants or arrest warrants; expunged criminal records; certain portions of presentence reports; grand jury proceeding records; certain child in need of care records; personally

identifiable records of students pursuant to state and federal law; Social Security numbers; phone numbers; email addresses; home addresses; dates of birth; driver's license numbers; records that are privileged under the Rules of Evidence, such as the attorney/client privilege; information pertaining to Homeland Security or national security; information related to arrests with completed diversions; and any other such information -- not otherwise listed herein -- the disclosure of which would be prohibited by law.

- (3) Any redactions to information within an investigation file shall be made by the OPA Sergeant or by the Chief's designee, and shall be approved, in advance of the Board's review, by the City Attorney or designee. Such investigation file shall not be copied, photographed, or otherwise duplicated during the Board's review. Upon conclusion of the Board's review, the investigation file shall, within a reasonable time thereafter, be returned to the OPA Sergeant, the OPA Sergeant's designee, or the Chief's designee.
- (d) Initially, the Board shall review the completed investigation file to determine whether additional investigation is necessary to resolve the Community Member Complaint. If the consensus of the Board is that additional investigation is necessary, then it shall return to the open meeting and shall vote to return the investigation file to the OPA Sergeant, the OPA Sergeant's designee, or the Chief's designee, and may give direction, outlining what information the Board believes is necessary to resolve the Community Member Complaint.
- (1) Upon completion of the additional investigation of the Community Member Complaint, the OPA Sergeant, the OPA Sergeant's designee, or the Chief's designee, shall, in accordance with subsection (c) *supra*, re-submit the investigation file to the Board for its review.
 - (2) Upon receipt of the re-submitted investigation file, the Board shall, in Executive Session in accordance with K.S.A. 75-4319, determine whether further investigation is yet needed. If the consensus of the Board is that further investigation is yet necessary to resolve the Community Member Complaint, it may return to the open meeting and vote to request that the City Manager appoint an independent, third-party investigator to investigate the Community Member Complaint. Upon receipt of that request, the City Manager may appoint an independent, third-party investigator to investigate the Community Member Complaint.
- (e) If the consensus of the Board, in its initial review of the investigation file, is that additional investigation is not necessary to resolve the Community Member Complaint, then the Board shall review the investigation file to determine if there is substantial competent evidence in the record to support the Department's or OPA's conclusion.

- (1) For the purposes of this Article, substantial competent evidence is relevant evidence that a reasonable person might accept as sufficient to support a conclusion.
 - (2) If, after deliberating, the consensus of the Board is that there is substantial competent evidence in the record to support the Department's or OPA's conclusion, then the Board shall return to the open meeting and vote to approve that conclusion.
 - (3) If, after deliberating, the consensus of the Board is that there is not substantial competent evidence in the record to support the Department's or OPA's conclusion, then the Board shall return to the open meeting and vote to disapprove that conclusion.
 - (4) All deliberations shall occur in Executive Session in accordance with K.S.A. 75-4319, but all decisions shall be made and all actions shall be taken during an open meeting, in accordance with the Kansas Open Meetings Act of 1972, codified as amended at K.S.A. 75-4317 *et seq.*
- (f) After voting, the majority may direct a member or members to prepare a written report setting forth the result of its vote and the rationale underlying its decision. The written report shall be forwarded to the City Manager, the Chief, and to the Community Member making the Complaint.
- (1) In the event of a split vote, the minority may submit a dissenting written report to the City Manager, to the Chief, and to the Community Member making the Complaint.
- (g) At the conclusion of its review, the Board shall, during an open meeting, direct a member or members to draft, for general release to the public, a summary of the Community Member Complaint, as well as its disposition. The summary shall not include the names of Community Members, police officers, any personally identifiable information, or any other information, the disclosure of which would be a violation of law.
- (h) If, at any time during the review procedure, the subject matter of any Community Member Complaint -- whether or not OPA has completed its investigation thereof -- becomes the basis of any criminal or civil action brought in any court of competent jurisdiction, then the Board shall hold its review of the Community Member Complaint in abeyance until the criminal or civil action, including any appeals thereof, are finally adjudicated. At the request of the Board and to the extent that it can do so legally and without violating any confidences or waiving any privileges, the Department will update the Board regarding the status of pending criminal or civil actions.

1-2505

MEMBERSHIP.

The Board shall consist of nine members. Membership is voluntary and no voting member shall receive payment for service on the Board. Members will be appointed by the Governing Body, upon the recommendation of the Mayor. In making appointments, the Mayor and the Governing Body shall include Community Members who reflect the racial and ethnic composition of the community. The Chief may designate an employee of the City to be the Department's liaison to the Board, and such designee shall serve as a nonvoting, *ex officio* member of the Board. The *ex officio* member shall serve as a liaison between the Department and the Board, but shall not, unless otherwise invited by the Board, be present or participate in reviews, deliberations, or other matters that take place in Executive Session in accordance with K.S.A. 75-4319.

1-2506

QUALIFICATIONS.

- (a) In order to be appointed to the Board, a person must:
 - (1) Be at least eighteen years of age;
 - (2) Be a resident of the City, or own a business within the corporate limits of the City;
 - (3) Not be employed by the City or be the immediate family member of any person employed by the City in the Department;
 - (4) Not be a member of the Governing Body or an immediate family member of a member of the Governing Body;
 - (5) Have no pending criminal charges in any local, state, or federal jurisdiction or other court of law;
 - (6) Not be an elected local, state, or federal public official or a candidate for such office; and
 - (7) Not be engaged in an ongoing civil action or other ongoing civil dispute with the City.
- (b) In addition to the foregoing qualifications, all appointments to the Board must:
 - (1) Sign a confidentiality agreement, agreeing that information reviewed and discussed regarding a Community Member's Complaint or review of an OPA investigation will be kept confidential and not disclosed -- excluding information that is expressly permitted to be disclosed under this Article -- to any person outside the Governing Body, City Manager's Office, City Attorney's Office, or the Department, or any other person whom those offices deem necessary to receive such information;
 - (2) Complete racial or other bias-based policing training within six months of appointment;

- (3) Complete KOMA (Kansas Open Meetings Act of 1972, codified as amended at K.S.A. 75-4317 *et seq.*) and KORA (Kansas Open Records Act of 1984, codified as amended at K.S.A. 45-215 *et seq.*) training within ninety days of appointment; and
 - (4) Receive additional training, as directed by the City Manager or designee, to assist the Board in its duties. Such training may include, but is not limited to, police use of force, de-escalation, and training to ensure the Board's understanding of the police department's current complaint investigation procedures. Any training that the Board receives shall be provided by a trained professional in the fields of law, Racial or Other Bias-Based Policing, law enforcement, and other such fields as the City Manager, in consultation with the Chief, deems appropriate. The City Manager or designee shall report annually to the Governing Body regarding the Board's training. Such report shall include all topics of training the Board has received during the last calendar year along with the length and provider of each.
- (c) The City Clerk, or designee, shall review each application for a Board Member to ensure that such applicant has properly completed the application.
 - (d) If, at any time after a Board Member is formally appointed to the Board, it is determined that any portion of the Board Member's application is fraudulent, includes a material misrepresentation, or includes a false statement, such Board Member shall be subject to removal from the Board.

1-2507

CONFIDENTIALITY.

Board Members shall agree, in writing, to protect the privacy of all persons named or involved in a Community Member Complaint and to maintain the confidentiality of information -- excluding information that is expressly permitted to be disclosed under this Article -- received by the Board in Executive Session. Each Board Member must, in accordance with Section 1-2506(b)(1) of this Article, sign a Confidentiality Agreement before the Board Member shall be permitted to serve on the Board. Any Board Member failing to maintain confidentiality, committing a breach of privacy, or breaching the Confidentiality Agreement -- excluding again information that is expressly permitted to be disclosed under this Article -- shall be subject to removal from the Board.

1-2508

BREACH OF PRIVACY.

- (a) Breach of privacy is knowingly and without lawful authority disclosing to any person confidential information received during an Executive Session of the Governing Body or a board established by the Governing Body.
- (b) Breach of privacy is a class A nonperson misdemeanor.

1-2509

TERMS.

Voting members of the Board shall serve no more than two consecutive three-year terms, except that a member appointed to fill an unexpired term shall be entitled to serve two three-year terms in addition to the partial term. Upon the resignation or removal of any member, the Governing Body shall, upon recommendation of the Mayor, appoint a new member to serve the unexpired portion of the resigning or removed member's term. The Mayor, with majority consent of the Governing Body, shall have the ability to remove a Board member for reasons of just cause, including but not limited to poor attendance, violation of the confidentiality requirements of this Article, violation of the City's Ethics Policy, or personal conduct inconsistent with the expectations of the City. The Chief's designee shall serve at the pleasure of the Chief.

1-2510

MEETINGS.

- (a) Annually, the Board shall elect one member to serve as Chairperson. The Chairperson, or designee in the absence of the Chairperson, shall preside at all meetings. All meetings shall be called by the Chairperson, the Chief, or by a call signed by a majority of the members of the Board. The Board shall meet at least quarterly, provided there are items to be discussed. The meetings shall be subject to the Kansas Open Meetings Act of 1972, codified as amended at K.S.A. 75-4317 *et seq.* The Board shall prepare and approve minutes of each meeting, which shall be forwarded to the Governing Body.
- (b) The Chairperson may allow public comment during open meetings, but such public comment shall not include comments regarding the conduct of a specific law enforcement officer. The Chairperson, or designee in the absence of the Chairperson, shall immediately refer the Community Member to the provisions for making Complaints under this Article.

1-2511

DECISIONS AND PROCEDURES OF THE BOARD.

All regular meetings and special meetings of the Board shall be open to the public. A majority of the Board's membership shall constitute a quorum of the Board for the purpose of transacting official business, regardless of the number of vacancies on the Board. Recommendations of the Board shall be approved by a majority vote of the Board members present and voting. The Board shall adopt any lawful rules, regulations and bylaws it deems necessary for its operation. Such rules, regulations and bylaws shall be submitted to the Governing Body and shall become effective upon approval by the Governing Body.

1-2512

RETALIATION PROHIBITED.

- (a) No person shall retaliate against another who:
 - (1) Files a Community Member Complaint under this Article;
 - (2) Cooperates in the investigation of a Community Member Complaint; or
 - (3) Is the subject of a Community Member Complaint.

- (b) Retaliate, as used herein, shall mean engaging in any conduct that is adverse to another person because of such other person's filing of a Community Member Complaint under this Article, cooperation in the investigation of a Community Member Complaint, or because such other person is the subject of a Community Member Complaint under this Article. Retaliation is prohibited in any form, including but not limited to making unwanted personal contact with such other person, either directly or indirectly through a third person or *via* electronic format, when such contact is intended to harass or disturb such other person.

SECTION 3. If any section, sentence, clause, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

SECTION 4. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED by the Governing Body of the City of Lawrence, Kansas, this ____ day of _____, 2021.

APPROVED:

Bradley R. Finkeldei
Mayor

ATTEST:

Sherri Riedemann
City Clerk

APPROVED AS TO FORM:

Toni R. Wheeler
City Attorney