



Introduced & 1st Reading: October 6, 2020
Second Reading & Adoption: May 4, 2021

City of Mount Rainier, Maryland
Ordinance 08-2020:

**Introduced by Mayor Malinda Miles
and the
Mount Rainier City Council**
MOUNT RAINIER'S CITIZENS'
POLICE REVIEW AND ADVISORY BOARD

Purpose.

- A. The general purpose of this ordinance is to provide for citizen participation in reviewing Police Department policies, practices, procedures, and to provide a prompt, impartial and fair investigation of complaints by individuals against police officers and employees of the Police Department.
- B. The Mayor and Council shall make every effort to ensure that individuals appointed to the Board fairly and accurately represent the City's racial, social, and economic composition.

Established—Composition.

- A. There shall be a five-member City of Mount Rainier Police Review and Advisory Board (hereinafter, "the Board"). Members of the Board shall be appointed by the Mayor and Council. Prior to appointing any member to the Board, the Mayor and Council shall seek qualified candidates by advertising in the "Message," and on social media, the City website, cable channels and such other media as may be determined by the Mayor and Council or City Manager.
- B. There shall be two representatives from each Ward on the Board and one from apartment complexes with more than 25 residents, regardless of Ward represented.
- C. The term of membership on the Board shall be two years and the terms shall be staggered to coincide with City elections. No member of the

Board may serve more than two consecutive terms. The Mayor and Council may remove members of the Board only for cause as defined in this Ordinance. All members of the Board shall be residents of the City at the time of appointment. If a Board member ceases to be a resident of the city, he or she shall no longer be eligible to serve on the Board and the position shall remain vacant until a new member is appointed to complete the term of the member formerly holding the position. The Mayor and Council shall make the new appointment within thirty days of the position being declared vacant or as soon as practical thereafter.

- D. Cause for removal from the Board shall include:
 - 1. unfair and unethical behavior with respect to the exercise of his or her duties as a Board member, as determined by the Ethics Commission;
 - 2. Conduct that is contrary to generally accepted social standards to which a reasonable person with an ordinary degree of reason, prudence, care, foresight, and intelligence would abide, as determined by the Ethics Commission.
- E. A member of the Board shall not hold any other position for the City while he or she is a member of the Board.
- F. No elected official of the City, no City employee, and no member of the immediate family of an elected official or City employee (husband, wife, brother, sister, son, or daughter) may serve on the Board.
- G. No member of the Board shall have been an employee of the City within two years of his or her appointment to the Board.
- H. No City elected official may serve on the Board for two years following his or her last term as an elected official in the City of Mount Rainier.
- I. The Board shall elect a Chairperson annually. The Board shall meet at the call of its Chairperson or of three members of the Board at least once a month. Meetings of the Board shall be open to the public except when the Board, in its discretion, meets in closed session in accordance with Maryland Open Meeting Act. All meetings of the Board shall be conducted in accordance with the Act.
- J. Members of the Board shall not receive compensation for their services but shall receive reasonable expenses and fees incurred because of their

membership on the Board. Reasonable expenses shall be in keeping with the guidelines applied to Mayor and Council.

Officers and staff.

- A. Executive Secretary (hereinafter, the "Secretary) to the Board. The Board shall appoint a Secretary. The Secretary shall be responsible for the daily administration of the Board. The Secretary's terms and conditions of service shall be fixed by the Board. The Secretary to the Board shall, with the consent and approval of the Board, be empowered to take minutes of all meetings, make official reports, when required, and ensure the maintenance of all records of the Board.

- B. Investigative Staff.
 - 1. The Board shall also appoint a Board Investigator if it deems necessary and such additional help to conduct investigations as it deems necessary. The terms and conditions of such employment shall be fixed by the Mayor and Council. Should Board Investigator be hired to investigate, the salary of the Board Investigator shall be proposed by the City Manager and subject to the approval of the Mayor and Council.

 - 2. The Board Investigator shall not be considered a regular employee of the City. He or she shall be appointed for specific investigative services as may be needed from time-to-time. All Board Investigators must possess skills and experience necessary for conducting investigative work.

 - 3. The terms and conditions of employment for any other investigative staff shall also be determined by the City Manager, subject to approval by the Mayor and Council.

- C. Other Staff. The City, from time-to-time, may retain such additional services as are necessary for the Board to carry out its duties. Any funding for such services will be proposed by the City Manager, subject to approval by the Mayor and Council.

Duties.

The Board shall have the following duties:

- A. The Board may provide advice to the Chief of Police regarding the establishment of policies, rules, and regulations for the Police Department (the "Department").

- B. The Board and the City Manager shall review the Department's budget before it is submitted to the Mayor and Council.
- C. The Board shall receive and investigate, to the extent permitted by law and the terms of any applicable collective bargaining agreement, any complaints concerning the operation of the Department, officers, and civilian employees of the Police Department, provided that it is understood that the City cannot provide personnel records to the Board, including the contents of departmental internal investigations.
- D. The Board shall make quarterly reports to the Mayor and Council, City Manager, and to the public, of the Department's activities during the previous year, including the handling of complaints, and future plans. The final disposition of complaints shall be made public except to the extent prohibited by law.
- E. The Board, with the assistance and approval of the City Attorney, shall have the power to administer oaths, take testimony, and review such evidence as it may collect from the public.

Chief of Police—Duties.

The Chief of Police shall administer the Department pursuant to existing laws, and the rules and regulations of the Department and the City's personnel policies and regulations.

Special meetings.

Special meetings may be called by the Secretary or by three members of the Board, upon written notice being given to all members of the Board, or written notice being mailed to each member and received at least forty-eight hours prior to such meeting, unless such notice is waived in writing by such members.

Complaints.

- A. A complaint by a member of the public (hereinafter, "a civilian complaint") or any police officer or civilian employee concerning the Department may be filed with the Board. Copies of the complaint shall be made available to each member of the Board, the Board Investigator, and the Chief of Police.

- B. The Board shall immediately order a preliminary investigation by its investigative staff. The purpose of such preliminary investigation shall be to determine if there is sufficient evidence to warrant a full investigation of the allegations contained within the complaint by the Board.
- C. The preliminary investigation shall be completed within two weeks, unless for cause a member of the Board extends such time. No preliminary investigation shall be extended for more than thirty days. After completion of such preliminary investigation, the Board shall either order a full investigation or summarily dismiss the complaint, as it deems appropriate.
- D. The Secretary shall keep a public docket of complaints and the disposition of each complaint after investigation.
- E. The Board shall issue a written response to all complaints and it shall deliver a copy of its response and/or findings to all parties.

THIS ORDINANCE IS ADOPTED BY THE MAYOR & CITY COUNCIL OF THE CITY OF MOUNT RAINIER THIS 4th DAY OF MAY, 2021.



Malinda Miles, Mayor



Luke Chesebrough, Councilmember Ward 1

Celina Benitez, Councilmember, Ward 1



Bryan Knedler, Councilmember, Ward 2

Scott Cecil, Councilmember, Ward 2

ATTESTED TO:

John Hoatson, City Clerk

Operating Rules and Regulations of the Police Review & Advisory Board

The Mayor and Council of the City of Mount Rainier Maryland hereby adopts the following rules as its operating procedures and guidelines to assist the Police Review & Advisory Board in carrying out its responsibilities pursuant to Mount Rainier's ordinance, codes, rules, and regulations.

1. Public Records—

The Board's records are subject to the state Public Records Laws and Open Meeting ACT. Whenever the Board produces any of its records in response to a Public Records request, such records shall be produced subject to the procedures and exemptions contained in the governing state Public Records Law and Open Meeting Act, and subject to City policy.

All records belong to and are property of the City of Mount Rainier and shall be filed with the City upon the completion of all investigations.

2. Complaints—

a. All complaints filed with the Board against a Mount Rainier Police Officer shall be made on the Board's official Complaint Form and signed and dated by the complainant.

b. Complaints against a Mount Rainier Police Officer must be filed within sixty (60) days from the date of the occurrence of the incident to be considered by the Board. Complaints submitted for filing after sixty (60) days from the date of the occurrence shall be rejected by the Board as untimely.

A rejected complainant may make a written appeal through the City Manager that the Board accept the late filing of a complaint. The Board may allow a late filing only if the complainant overcomes the presumption against late filing by showing in the written appeal good cause, e.g., death in the family, hospital emergency, etc., for the late filing.

3. Investigation of Complaints—

a. The preliminary investigation of complaints filed with the Board shall be done by the Board Investigator.

b. The Board Investigator shall report the results of the preliminary investigation to the Board's Executive Secretary.

c. The Executive Secretary shall review the report of the preliminary investigation and forward it to the full Board. If the Board concurs with the

result of the preliminary investigation, the Executive Secretary shall communicate such concurrence to the complainant and respondent officer. If the Board does not concur with the result of the preliminary investigation, then the Board shall notify the complainant of the reasons for its non-concurrence and may request that the Board Investigator conduct further investigation.

d. The Board Investigator shall have the opportunity to respond to the Board's reasons for non-concurrence before the Board notifies the complainant and respondent officer of its final action in connection with the Board Investigator investigation.

e. After the final response from the Professional Standards Section, the Board may order its staff to investigate further and to make final recommendations to the Board. The Board shall then take final action on the investigation of the complaint. If the complainant fails to cooperate with the investigation by the Board Investigator or by the Board staff, the Board may summarily dismiss the complaint as such final action.

4. Mediation—

a. After the Board's final action described above or at any other time by written agreement of the parties, either the complainant or respondent officer may request that the complaint be addressed through voluntary mediation conducted by the Executive Secretary. For mediation to occur, both the complainant and respondent officer must agree in writing to participate in it. No public attendance at, or participation in, mediation will be permitted.

b. The Executive Secretary, or his or her designee, will make a good faith effort to mediate the complaint to the satisfaction of the parties and to complete the process within thirty (30) days. The Executive Secretary shall have no authority to impose a resolution of the complaint not agreed to by the parties.

c. Either of the parties may terminate the mediation at any time at his/her sole discretion. The Executive Secretary may terminate the mediation at any time if he/she determines that voluntary agreement is not likely to result from the mediation.

d. If agreement between the parties is reached through mediation, the Executive Secretary shall give written notice of the agreement of the parties to the Board and the Police Commissioner. If agreement between the parties is not reached through mediation, then the Executive Secretary shall advise

the complainant and respondent officer of their right to request a hearing before the Board as provided below.

5. Hearings—

a. If a complaint is not resolved as a result of investigation to the satisfaction of the complainant, the respondent officer, or a member of the Board, either the complainant, the respondent officer, or the Board member may request no later than thirty (30) days after the Board's final action on the investigation that the full Board hear the matter. All hearings before the Board shall be conducted with notice to and assistance from the City Solicitor's office as required by the Ordinance.

b. All parties to the hearing shall receive notice of the hearing at least five (5) business days prior to the date of the hearing.

c. The hearing will not be conducted according to the strict rules of evidence that apply in a court of law. However, irrelevant material may be excluded, and objections will be heard.

d. At the hearing, the Board may review the investigative report/s and the evidence gathered in connection therewith, swear witnesses, hear testimony, and take evidence as required by the Ordinance.

e. The Board's Chair, or such other Board member as the Chair may designate, shall rule on all objections and make other rulings regarding the conduct of the hearing, including, but not limited to, setting time limits for the questioning of witnesses and for statements by the parties. No public participation in the hearing will be permitted, although the public may attend the hearing.

f. The complainant shall present his/her case first. All individuals testifying shall be subject to questioning. The complainant shall testify first and be subject to questioning in the following sequence: first by members of the Board, then by the respondent, or his/her representatives, and then by the Board's staff member who conducted the investigation for the Board. Witnesses produced by the complainant will be subject to the same order of questioning. Board staff may be asked by the Board to provide relevant information or clarification as is appropriate.

g. After the complainant's case is presented, the respondent officer may present testimony and other evidence. The same order of questioning shall apply, as stated in paragraph (f) above, including the right of the complainant or his/her representative to question the respondent officer and witnesses presented in the respondent officer's behalf.

- h. After the Board obtains all the evidence, each party will be given the opportunity to make a final closing statement.
- i. After the hearing, the Board will deliberate, and render a decision based on the testimony and other evidence presented to it at the hearing. The Board may dismiss the complaint, make recommendations to the City Manager concerning the discipline of employees of the Police Department, or make recommendations to the City Manager concerning changes to Police Department policies, practices, and procedures.

6. Continuances—

- a. The Board may grant a continuance of a hearing, or of the thirty (30) day deadlines for requesting a hearing, by a majority vote. In particular cases, the Board may delegate to the Executive Secretary the power to grant a continuance of a hearing requested by the complainant or respondent if the continuance request is made prior to 72 hours before the time scheduled for the hearing.
- b. If a request for continuance is made within 72 hours of the scheduled hearing, the hearing will take place as scheduled, but the party requesting the continuance (or his/her representative) may address the Board at that time to explain the reason the continuance is being requested. The Board will decide by majority vote whether to grant the continuance request.
- c. In the case of inability of the requesting party or that party's counsel to attend the hearing due to illness or other involuntary unforeseeable incapacity, the Executive Secretary may cancel the hearing, inform Board members and all parties, and reschedule the hearing.
- d. It is the responsibility of the parties involved to make any necessary arrangements with counsel if they desire counsel representation. Any scheduling problems that arise due to failure of a party to give timely notice to his/her counsel shall not be the basis for a continuance.

7. Meetings—

- a. Written notice of upcoming meetings shall be provided by the staff to Board members at least forty-eight (48) hours prior to the meeting. It is the responsibility of the Board members to keep staff apprised of address changes.
- b. Attendance of three (3) board members shall constitute a quorum.

c. All decisions of the Board shall be by majority vote of a quorum of the Board members present and voting.

d. The Executive Secretary shall maintain accurate records of Board meetings, including executive sessions, in accordance with the state Open Meeting Law. In the absence of the Executive Secretary, any Board member may maintain the minutes of the meeting.

e. No executive session shall be held until the Board has first convened in an open session for which notice has been given, a majority of the members of the Board have voted to go into executive session, and the vote of each member has been recorded on a roll call vote and entered into the minutes. The purpose of the executive session must be stated by the Chair, as defined in the state Open Meeting Law, and the Chair must state before the executive session whether the Board will reconvene after the executive session.