

**TOWN OF GUTTENBERG
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE #31-20

**AMENDING CHAPTER II, ARTICLE IV, SECTION 2-18.4 ENTITLED “COMMITTEE
ON POLICE” OF THE REVISED GENERAL ORDINANCES OF THE TOWN OF
GUTTENBERG TO ALLOW THE COMMITTEE ON POLICE TO DELEGATE ITS
AUTHORITY TO CONDUCT POLICE DISCIPLINARY HEARINGS TO A
INDEPENDENT HEARING OFFICER**

WHEREAS, Article IV Section 2-18.4 of the Code of the Town of Guttenberg entitled “Committee on Police” permits the annual appointment of three (3) members of the Mayor and Council to serve as the “Committee of Police”, the purpose of which is to promulgate, adopt and enforce rules and regulations controlling the Guttenberg Police Department; and

WHEREAS, the Committee on Police shall have power to inflict such penalties for neglect of duty, misbehavior, incompetency or inability to serve, as are authorized by this section or such rules and regulations as may be hereafter adopted by the Council, provided, however, that the Committee shall not have power to reduce an officer in rank or to dismiss an officer or patrolman from the Police Department, except for cause and in the manner provided by the Statute; and

WHEREAS, the Committee on Police is responsible for enforcing the Department’s rule and regulations, and imposing discipline and penalties (including termination), subject to just cause standards and the mandates set for the N.J.S.A. 40A-14-118, et seq.; and

WHEREAS, the Mayor and Council of the Town of Guttenberg desire to amend the Town’s code in order to allow the Committee on Police, upon recommendation to and approval from the Mayor and Council, the use of an independent hearing officer (at a rate and not to exceed amount to be determined by the Mayor and Council) to be used at any Guttenberg Police Department disciplinary hearing; and

WHEREAS, any independent hearing officer so retained shall preside over the local disciplinary hearing, to assure that a satisfactory transcribed record is developed in conformity with the requirements of N.J.S.A. 40A-14-147 et seq., and shall issue a written report with proposed findings of fact and conclusions of law for consideration by the Committee on Police;

WHEREAS, that upon presentation of the independent hearing officer’s report, the Committee on Police shall review the report together with the transcript of the proceedings; the Committee on Police is hereby authorized to accept, reject or modify the proposed findings of fact and conclusions of law, and shall make a recommendation to the Mayor and Council relative to the discipline (if any) to impose.

WHEREAS, the Mayor and Council of the Town of Guttenberg recognize that for a number of reasons, including the on-going Covid-19 Pandemic, it has become increasingly clear that convening timely hearings before the Committee on Police is growing more difficult and is

having an adverse effect on due process and the efficient and effective operation of the Guttenberg Police Department, as well as, to maintain the health, safety and welfare of the members of the Committee on Police, members of the Police Department and that of potential witnesses, the existing Ordinance must be amended;

WHEREAS, the use of independent hearing officers has become the customary and standard practice for municipalities throughout the State of New Jersey when conducting local disciplinary hearings and the Mayor and Council feel that such an amendment to the Ordinance is not only timely, but is a necessary update to the ordinance essential to the effective operation of the Town.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Guttenberg, County of Hudson, State of New Jersey, that Ordinance Chapter II, Article IV, § 2-18.4, shall be amended as follows:

SECTION I

That the foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon the adoption hereof.

SECTION II

That the Mayor and Council of the Town of Guttenberg do hereby amend the Town’s Ordinances, Chapter II, Article IV, entitled “Departments,” § 2-18.4, entitled “Committee on Police,” to read as follows: [Additions are underlined]

§ 2-18.4 Committee on Police

- a. There shall be appointed annually by the Mayor and Board of Council from among the members of the Council, a Committee, to be known as the "Committee on Police," consisting of three members, whose duty it shall be to enforce the provisions of all such rules and regulations as shall be adopted by the Mayor and Board of Council for the government, control and discipline of the Police Department. Such Committee shall have power to inflict such penalties for neglect of duty, misbehavior, incompetency or inability to serve, as are authorized by this section or such rules and regulations as may be hereafter adopted by the Council, provided, however, that the Committee shall not have power to reduce an officer in rank or to dismiss an officer or patrolman from the Department, except for cause and in the manner provided by the Statute.
- b. The Committee on Police is hereby authorized to delegate its authority to conduct police disciplinary hearings as it deems to be in the best interests of the parties to an independent hearing officer.
- c. The Committee on Police shall be required to present its recommendation to the Mayor and Council, seeking its approval, by way of Resolution, to negotiate, retain and enter into

a professional services contract to pay for the use of an independent hearing officer (at a rate and not to exceed amount to be determined by the Mayor and Council).

- d. Any independent hearing officer so retained shall preside over the local disciplinary hearing, assure that a satisfactory transcribed record is developed in conformity with the requirements of N.J.S.A. 40A-14-147 et seq., and shall issue a written report with proposed findings of fact and conclusions of law for consideration by the Committee on Police.
- e. Upon presentation of the independent hearing officer's report, the Committee on Police shall review the report together with the transcript of the proceedings; the Committee on Police is hereby authorized to accept, reject or modify the proposed findings of fact and conclusions of law, and shall make a recommendation to the Mayor and Council relative to the discipline (if any) to impose.

SECTION III

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION IV

All ordinances or parts of ordinances in conflict herewith, are hereby repealed.

SECTION V

It is the intention of the Mayor and Council of the Town of Guttenberg, that the provisions of this Ordinance shall become and be made a part of the Town Code of Ordinances; and that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION VI

This ordinance shall take effect upon passage and publication as required by law (according to local and state requirements).

SUMMARY OF ORDINANCE

This Ordinance amends the current ordinance to permit and allow the Committee on Police to delegate its authority to conduct police disciplinary hearings as it deems to be in the best interests of the parties to an independent hearing officer.

/S/ Alberto Cabrera

Introduction: 11.9.20

Adoption: 11.23.20

