

AN ORDINANCE TO AMEND CHAPTER 37 OF
THE CODE OF THE CITY OF SARATOGA SPRINGS, NY
ENTITLED "CIVILIAN REVIEW BOARD"

BE IT ORDAINED by the City Council of the City of Saratoga Springs, NY, as follows:

SECTION 1: Chapter 37 of the Code of the City of Saratoga Springs, entitled "Civilian Review Board", is hereby enacted to read (new material underlined, old material in brackets):

CHAPTER 37
CIVILIAN REVIEW BOARD

37-1 FINDINGS AND PURPOSE

- A. The Saratoga Springs Police Department (the Department) exists to help create and maintain a safe environment for the citizens and visitors to our community. In order to fulfill that role, the Department must have the trust and respect of the community. The Civilian Review Board (CRB) is intended as an aid to maintaining that trust and respect.
- B. The trust and confidence of the community in its law enforcement personnel are essential for the smooth operation of the Department. The members of the Department, both sworn and civilian, are part of the community. The community as a whole relies on its trust and confidence in law enforcement as part of the foundation of a free and secure society. When that trust and confidence is drawn into question or broken, prompt, appropriate and effective procedures must be available to resolve any issues that may have arisen.
- C. Our society entrusts its police departments with extraordinary authority. An encounter with law enforcement can profoundly impact the life of the person affected, whether that person is an individual in need of assistance; a victim of or witness to criminality; or a person accused or suspected of wrongdoing. Members of law enforcement must accept that their authority is granted to them by the people they serve. Accordingly, the public is entitled to openness and transparency from the Department as an integral component of a relationship grounded in mutual trust and respect.
- D. A system that facilitates communication between the Department and the people it serves, especially when grievances arise, is essential for the maintenance of trust and confidence in the Department by the community. With this in mind, the following is ordained, established and implemented:

37-2 IMPLEMENTATION

- A. There shall be a Civilian Review Board (CRB) whose purpose is to receive, process and, whenever possible, amicably resolve grievances regarding the conduct of employees of the Department. The CRB shall also act as a vehicle for generating and expressing informed opinions relating to public policy regarding law enforcement in our City. The CRB should represent a fair cross section of the Saratoga Springs community with regard to age, sex, sexual orientation, cultural background and socio-economic background. The members of the CRB shall be individuals of good character who must, at all times, remain unbiased and impartial regarding matters of law enforcement in our community so that the work of the CRB will be, and will be perceived as, even-handed, just, fair and proper by all stakeholders, including by members of the Department.
- B. The CRB shall consist of five members, one of whom shall be its Chair. No member may be employed by the Department in any capacity during his or her tenure on the CRB, and no member may be an elected official. [The Chair must have some prior experience in adjudicatory proceedings or decision-making and be capable of presiding over administrative hearings, though the Chair need not be an attorney.] Members must be at least 18 years of age, must have their primary residence in Saratoga Springs, and must have resided in Saratoga Springs for at least one year prior to the date of appointment, with periods of vacation, military deployment or hospitalization deemed not to constitute interruptions of continuous residence. At least one member shall be between the ages of 18 and 25 at the time of appointment. No one may serve as a member of the CRB who has been convicted of a felony within the 10 years preceding the submission of an application for membership; however, a Certificate of Relief issued pursuant to the Executive Law or a Sealing Order issued pursuant to the Criminal Procedure Law shall remove this disability. No one may serve as a member of the CRB who has been convicted of a crime involving fraud or moral turpitude within the 10 years preceding the submission of an application for membership.

37-3 INITIAL APPOINTMENT OF CRB MEMBERS

- A. The Chair of the CRB shall be appointed by the Mayor, subject to ratification by at least two additional City Council members. The Chair shall serve a two-year term. The Mayor shall make the appointment of the CRB Chair first. The remaining members of the City Council shall then draw lots for the order in which they will each make one of the remaining appointments. Each appointment shall be subject to ratification by at least two additional City Council members. If no CRB member between the ages of 18 and 25 shall have been appointed by the time of the appointment of the last CRB member, the City Council member chosen to make the final appointment shall appoint an individual between the ages of 18 and 25 to serve on the CRB.

- B. Members of the CRB other than the Chair shall serve staggered three-year terms. No one may serve on the CRB for more than six years. When the CRB is first empaneled, the two members appointed after the Chair shall serve three-year terms; the next member appointed shall serve an initial two-year term; and the final member appointed shall serve an initial one-year term. Vacancies occurring prior to the expiration of a member's term shall be filled for the balance of the unexpired term by the City Council member presiding over the department whose Commissioner appointed the CRB member whose seat is vacant, subject to ratification by at least two additional City Council members. Subsequent appointments and/or re-appointments shall be made by the City Council member presiding over the department whose Commissioner shall have appointed the CRB member whose term of office shall have expired, subject to ratification by at least two additional City Council members
- C. The existence of an open position or positions on the CRB shall be announced as an agenda item at a regularly scheduled City Council meeting. Appointments shall be made at least 30 days following the date of the City Council meeting at which the open position was announced. The City Council shall adopt an application form; to be completed and signed under oath by the applicant, which shall be publicly posted on the City website and available for public inspection and copying at the Office of the City Clerk at least 10 days prior to the date of the City Council meeting at which an appointment is scheduled to be made. The Chair and members of the CRB shall file an oath of office with the Office of the City Clerk prior to the commencement of their participation on the CRB.

37-4 REMOVAL

- A. The Chair or any member of the CRB may be removed for cause by a majority vote of the City Council at a regularly scheduled meeting of the City Council.
- B. The proposed removal of a member of the CRB shall appear as an agenda item, with the alleged cause for removal stated in the agenda, prior to the meeting at which the proposed removal is to be considered.

37-5 FUNDING; TRAINING; ORGANIZATION

- A. The Office of the Mayor shall be responsible for providing adequate budget and training to ensure proper functioning of the CRB.
- B. The CRB shall have authority to create forms and promulgate internal procedural rules consistent with the City Charter and City Code. Copies of any such forms and procedural rules shall be made publicly available by posting on the City website.

- 37-6 PROCEDURE

A. Timeliness of Complaints

[In order for the CRB to properly investigate a complaint, the complaint should be made as soon as possible, but not more than 90 days after the incident in question. That time period may be extended for good cause shown.]

A complaint must be filed as soon as practicable, but in no event later than ninety (90) days after the incident giving rise to the complaint; provided, however, that such period may be extended upon a showing of good cause.

B. Filing of complaint; form

(1) [Upon receiving a complaint from a resident of the City, the Department shall make a good faith effort to resolve the issue, but shall immediately upon receiving the complaint advise the complainant that s/he may, at any time, have the complaint, which shall be reduced to writing, filed with the CRB for review. All complaints shall be recorded in the police log and flagged there in a way to distinguish them from other entries.]

(2) [Complainants shall be given a form upon which to record their complaint. The form shall have a check box and shall state that when checked, the complaint will be registered with the CRB. Two weeks from the date of the filing of complaints which have been filed with the CRB, a letter shall be sent to the complainant asking if the complaint has been resolved. The letter shall contain a form which, if checked by the complainant, shall indicate their desire to actively engage the CRB's grievance procedure, a copy of which shall be attached to the form.]

(1) Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence to complete the investigation in compliance with SSPD policy (SSPD Policy 1010.6.7).

(2) The Department shall provide the complainant with a standardized complaint form. Such form shall include a clearly designated option by which the complainant may request review by the CRB.

(3) Where a complaint requests CRB involvement, the Department shall notify The CRB of such request as soon as possible, but in no event later than seventy-two (72) hours after receipt of the complaint.

C. Department Investigation and Record

[Once the CRB has been advised of the desire of the complainant to actively engage the CRB, the Department shall conduct an investigation of the complaint and shall create a thorough and complete file of the investigation including all records, statements, evidence and other documents relied on by the Department in reaching its conclusion regarding the disposition of the complaint.

The Department shall identify all records in the file which it will rely on if the matter is to proceed to an administrative hearing and shall provide copies of those records to the complainant. The Department shall complete its investigation and compilation of records within three weeks of the date when the CRB will have notified the Department in writing]

The Department shall conduct a complete investigation of each complaint and shall compile a comprehensive investigative record, including all reports, statements, evidence, and other materials relied upon in reaching its determinations. Upon completion of the investigation, the Department shall, in each situation where the complainant has requested review by the CRB, transmit the investigative record to the CRB as soon as practicable, except for any portion thereof that is sealed by court order or otherwise rendered confidential by law. Where any portion of the record is withheld or redacted, the Department shall provide the CRB with a written statement setting forth the legal basis for such withholding or redaction.

D. Initial Review by the CRB

[Thereafter, should the complainant agree, one of the members of the CRB shall conduct a preliminary meeting between the complainant, who may obtain representation, and a Department representative. At that time, an attempt shall be made to secure a voluntary resolution of the grievance by the CRB member's mediation of the dispute. The members of the CRB shall rotate mediation assignments. Where the CRB member serving in a mediation role concludes that they have been given information during mediation which may influence their ability to serve in a neutral capacity, they shall recuse themselves from future deliberations of the CRB regarding the disposition of the grievance giving rise to the mediation. Where the parties cannot reach a voluntary settlement of the complaint, the neutral CRB member may, at the conclusion of the mediation, decide that the grievance is so lacking in merit as to be ineligible for appeal to the next step in which case s/he shall so advise the CRB, which shall vote on whether or not the grievance should be dismissed.]

Upon receipt of the Department's investigative record, the CRB shall conduct an initial review to determine whether the allegations, taken as a whole, reasonably demonstrate one or more of the following:

- (1) The use of excessive force by a police officer;
- (2) A deprivation of an individual's civil rights; or
- (3) Conduct in violation of any policy duly established and approved by the Saratoga Springs Police Department.

E. Disposition and Further Proceedings

[Where no resolution of the grievance has been obtained and the matter not declared ineligible for appeal, the CRB shall schedule an administrative due process hearing at which time the parties shall present evidence in support of their respective positions. Absent good cause shown, the Department shall be precluded from offering documentary evidence which was not previously shared with the complainant at the preliminary meeting.]

- (1) If the CRB determines that the allegations do not meet any of the criteria set forth in Subsection D, the complaint shall be dismissed, and written notice of such determination shall be provided to the complainant and to the Department.
- (2) If the CRB determines that one or more of the criteria set forth in subsection D are satisfied, The CRB shall assign one of its members to

conduct separate meetings with the complainant and with a representative of the Department. The complainant may be represented by counsel or other representative. The assigned member shall attempt, in good faith, to facilitate a voluntary resolution of the complaint through mediation.

- (3) Mediation assignments shall be made on a rotating basis among CRB members. Any member who determines that information obtained during mediation may impair his or her impartiality shall recuse himself or herself from further participation in the matter.
- (4) The assigned member shall report the outcome of such meetings to the full CRB. In the absence of a voluntary resolution, the CRB will proceed with further review of the complaint and the investigative record.
- (5) Upon completion of its review of the complaint and subsequent investigation, the CRB shall render one of the following findings:

Approved – The complaint and investigation were reviewed and found to be completed thoroughly, and the CRB affirms the finding of the investigation.

Returned for Reevaluation – The complaint and investigation were reviewed and referred to the Police Department for further investigation and/or evaluation.

Referred to DPS – While the investigation was found to be complete, there is recommendation for policy revision, training or other procedural review based upon the findings of the investigation.

Unable to Determine – The complaint and investigation were reviewed and the CRB is unable to make any determination based on the information provided.

The complainant shall be notified in writing of the CRB's findings within 30 days of those findings.

In addition to and not in limitation of its other authority stated in this Chapter, the CRB shall have authority to issue advisory opinions and recommendations.

- (6) The CRB shall have authority to review the effectiveness of local policies' laws, and ordinances relating to police functions, and may recommend amendments or improvements thereto to the Commissioner of Public Safety.
- (7) The CRB may, where appropriate, make reports or referrals to, or request independent investigation from, to any agency or entity of competent jurisdiction.

- (8) Any media requests and public statements regarding matters before the CRB will be handled by the Chair in coordination with the City Attorney's Office.

- F. [The administrative hearing shall be conducted in a manner which will satisfy the due process requirements of a proceeding held under the New York State Administrative Procedure Act, including but not limited to the swearing of witnesses and the issuance of administrative subpoenas to compel the testimony of witnesses, the production of documents, or both. The relaxed rules of evidence for an administrative proceeding, including the admissibility of hearsay, should apply. Should circumstances warrant, the CRB shall enjoy the discretion to ask questions of its own, to allow testimony in a narrative fashion, or to employ any reasonable means of eliciting the truth without placing an undue burden on either side in the controversy. The hearing shall normally be a private proceeding; a record shall be kept, however, of all testimony adduced and all records presented. The parties shall cooperate to all reasonable extents at the hearing, and the CRB shall have discretion to draw an adverse inference against any party or witness who fails to cooperate reasonably with the proceeding.]

37-7 POWERS AND DUTIES OF THE COMMISSIONER OF PUBLIC SAFETY

- A. The Commissioner of Public Safety (the Commissioner) shall have no authority to review any interlocutory or substantive determination of the CRB. The Commissioner's authority over the proceedings of the CRB shall be limited to a review of and action upon the CRB's advisory conclusions and recommendations.
- B. The Commissioner shall be provided with the full record of any [hearings] actions which result in advisory conclusions [and] and/or recommendations by the CRB. Within a reasonable time of receipt of the advisory conclusions and recommendations and record, and after having provided at least 30 days for the complainant, the Department, or both to submit written briefs or statements, should either or both so desire, the Commissioner shall issue a written decision. That decision, which shall be made available to the public in accordance with the Freedom of Information Law, shall include a specific determination as to whether the record provides a sufficient basis for the CRB's advisory conclusions and recommendations as well as a specific determination as to whether the CRB's advisory conclusions and recommendations are in accord with the weight of the evidence submitted [at the hearing] to the CRB. In making this latter determination, the Commissioner shall give reasonable deference to the CRB's assessment of the credibility of [any witnesses who may have testified before it] any persons who may have been interviewed by the CRB; however, the Commissioner retains the authority to review both factual findings and legal conclusions made by the CRB.
- C. The Commissioner's decision shall adopt, reject or modify the advisory conclusions and recommendations of the CRB. The decision shall clearly set forth

the reasons for which the advisory conclusions and recommendations are adopted, rejected or modified. The decision shall respect, wherever applicable, the strictures of any collective bargaining agreement which may limit the scope of the Commissioner's authority. For purposes of any potential judicial review of the CRB's actions under Article 78 of the Civil Practice Law and Rules, the decision of the Commissioner shall be considered the final administrative determination.

37-8 CONSISTENCY WITH CITY CHARTER

Nothing in this Chapter shall be read as a limitation, abridgement or infringement of any rights or powers conferred by the Saratoga Springs City Charter.

SECTION 2: This ordinance shall take effect the day after publication as provided by the City Charter of the City of Saratoga Springs, NY

ADOPTED: July 7, 2026



City Council of the City of
Saratoga Springs, New York

Jessica Troisi, City Clerk