

Chapter 21 - POLICE

***Charter reference**—Chief of police to serve as marshal, § 117.

***Cross reference**—General penalty for Code violations, § 1-8; administration, Ch. 2; alcoholic beverages, Ch. 4; civil defense, Ch. 7; fire department, § 9-36 et seq.; motor vehicles and traffic, Ch. 14; guards and security patrol officers, § 13-46 et seq.; municipal court, Ch. 15; offenses and miscellaneous provisions, Ch. 16.

ARTICLE I. - IN GENERAL

Secs. 21-1—21-15. - Reserved.

ARTICLE II. - DEPARTMENT

***Cross reference**—Authority of police department officials in regards to traffic, § 14-26; required obedience to police department officials' traffic directions, § 14-27; pension provisions for policemen, § 18-16 et seq.

Sec. 21-16. - Composition.

The police department shall consist of a chief of police who shall be the director of the department, together with such subordinate officers of police and detectives as may be deemed necessary for the proper conduct of the duties of the department.

(Code 1964, § 7.185)

Sec. 21-17. - Uniforms.

The uniforms of the chief of police and the regular police officers shall be prescribed by the city manager, and the costs thereof shall be paid by the city.

(Code 1964, § 7.205)

Sec. 21-18. - Special temporary police officers.

When, in the opinion of the chief of police, the regular police force of the city, provided for by ordinance, shall be insufficient to deal with any emergency or to enforce the ordinances of the city and the laws of the state within the city, the chief of police may, with the approval of the city manager, commission special temporary police officers, who shall possess the legal requirements for police officers, with or without compensation, and for such period as he may determine; provided, that no temporary police officer shall be appointed for a longer period than one year. Such appointment shall be reported to the city manager and, when approved by him, the city clerk shall issue to each special temporary police officer a commission which shall set forth the day and hour of the appointment and the day and hour of the expiration thereof. Such special temporary police officers shall have all the powers and duties of the regular police officers of the city as established by ordinances and by the laws of the state, and like responsibilities. Any or all appointments of special temporary police officers may be revoked by the chief of police by giving notice of such revocation to the city clerk.

(Code 1964, § 7.200)

Sec. 21-19. - Powers and duties of chief, generally.

The chief of police shall have general supervision and control of the department, including the enforcement of discipline among the members thereof, and the instruction of the members in their duties.

(Code 1964, § 7.190)

Sec. 21-20. - Duties of members, generally.

- (a) Any police officer who has completed the basic police training program required by state statute shall have the authority to respond to an emergency situation outside the city limits.
- (b) It shall be the duty of each member of the police department to protect the life and property of all persons in the city and to obey punctually the orders of the chief thereof; and all the members thereof shall, to the best of their ability, preserve order, peace and quiet throughout the city.

(Code 1964, § 7.195; Ord. No. 11370, § 1, 2-2-87)

Sec. 21-21. - Chief, officers as marshals of municipal court.

The chief of police and his subordinates shall serve as marshal and deputy marshals of the municipal court and enforce its orders, judgments and decrees.

Charter reference—Similar provisions, § 117.

Sec. 21-22. - Supervision over city property.

The chief of police shall have general supervision over all city property, and he and his subordinates shall have authority to arrest any trespasser on city property or portions thereof not open to the public or trespassers on property open to the public during certain specified times but who are thereon during times when such property is closed to the public, and to remove or abate nuisances or encumbrances put thereon without the authority of the city.

(Code 1964, § 7.255)

Sec. 21-23. - Power to serve processes.

The chief of police and officers of police shall have authority and power to serve and execute all warrants, subpoenas, writs, notices or other process issued by the municipal judge, city council or other officers having authority to issue the same, at any place within the limits of the county, and make return thereof according to law or ordinance. Their authority beyond the limits of the county shall be such as is provided by state law.

(Code 1964, § 7.210)

Sec. 21-24. - Reporting violations of ordinances.

It shall be the duty of the chief of police and his subordinates to report for prosecution all persons who shall violate any ordinances of the city, and all information and facts coming to his knowledge having reference thereto.

(Code 1964, § 7.215)

Sec. 21-25. - Right of entry.

To make an arrest in criminal actions, an officer may break open any outer or inner door or window of a dwelling house or other building, or any other enclosure, if, after notice of his office and purpose, he is refused admittance.

(Code 1964, § 7.220)

Sec. 21-26. - Arrest with and without warrant.

(a)

The chief of police and all members of the police department shall have the following powers to make or order arrests within the city:

(1)

Upon a warrant issued by any judge or magistrate for violation of ordinances of the city or laws of the state.

(2)

Upon probable cause to believe that a person is committing or has committed a felony.

(3)

Upon probable cause to believe that a person is committing or has committed a misdemeanor in his presence.

(b)

The power to arrest authorized by this section shall be in addition to all other powers conferred upon police officers and shall not be construed so as to limit or restrict any other powers of a police officer.

(Code 1964, § 7.225)

Sec. 21-27. - Procedure upon arrest.

Any person arrested for violation of the ordinances of this city shall be immediately conveyed to the county jail or such other place of confinement as the chief of police may direct, and the chief of police and members of the police department shall have the authority and power to keep such person in the county jail or other such place of confinement and prevent his escape until a trial can be held before the proper court, except as otherwise provided in this article.

(Code 1964, § 7.230)

Sec. 21-28. - Person arrested to be taken before municipal judge; exceptions.

Whenever any person shall have been arrested under the provisions of this chapter, or any other law or ordinance, it shall be the duty of the chief of police forthwith to take or cause him to be taken before the municipal judge or other proper officer, after information duly made and filed as provided by law, to be dealt with according to law or ordinance; provided, that when an arrest shall be made in the nighttime or on Sunday, or any legal holiday, or the person arrested shall be in a state of intoxication, then it shall be the duty of the chief of police and members of the department to convey such person to the county jail or other place of confinement as the chief of police may direct, there to remain until the following day, or until he shall have perfectly sobered, when

he shall be brought before the municipal judge or other proper official, as aforesaid.

(Code 1964, § 7.235)

Sec. 21-29. - Discharge of persons arrested.

A person arrested by the chief of police or a member of the police department shall be held in accordance with section 21-27, except that such persons may be released by order of the city counselor, municipal judge or other proper officer, or upon bail or bond in such sum as may seem sufficient and proper with sufficient security for his appearance at a time and place stated in the bond.

(Code 1964, § 7.240)

Sec. 21-30. - Supervision of prisoners; records.

The chief of police shall exercise supervision over all city prisoners, keeping a register of all persons imprisoned for offenses against the ordinances, by whose order the person is imprisoned, for what offense the person is imprisoned, where such person is imprisoned and when such person was committed and when he shall be discharged.

(Code 1964, § 7.245)

Sec. 21-31. - Records of revenues.

The chief of police shall compile such accounts of all money collected by or in his office as may be required by the director of finance, and shall report the same to the director of finance, and pay over all money collected by him as fees, fines, or from other sources, unless other disposition shall have been provided by Law or ordinances.

(Code 1964, § 7.260)

Secs. 21-32—21-43. - Reserved.

ARTICLE III. - CITIZENS POLICE REVIEW BOARD

Sec. 21-44. - Purpose.

The purpose of this article is to provide an external and independent process for review of actual or perceived police misconduct thereby increasing police accountability to the community and community trust in the police.

(Ord. No. 20331, § 1, 7-20-09)

Sec. 21-45. - Definitions and rule of construction.

The following definitions and rules of construction apply to this article:

Board, when not otherwise specified, means the citizens police review board.

Complainant means a person who files a complaint with the police department against a police officer.

Complaint means a written statement alleging misconduct of a police officer involving interaction with the public.

Notice shall be considered given when it is hand delivered or three (3) business days after it is mailed.

Police officer and *officer*" means a commissioned law enforcement officer, other than the chief of police, who has the power of arrest and who serves in the Columbia police department.

(Ord. No. 20331, § 1, 7-20-09)

Sec. 21-46. - Establishment; membership; qualifications; terms; and removal.

(a)

The citizens police review board is hereby established.

(b)

The board shall consist of eight (8) members appointed by the city council and a member of the commission on human rights appointed by the commission. Members shall serve without compensation.

(c)

Board members must be residents of Columbia and registered voters. Board members may not be employed by the city, be a party to any pending litigation against the city, be an elected public office holder, or be a candidate for elected public office. Board members should reflect the cultural and racial diversity of Columbia and have no serious criminal record. The police chief shall obtain a criminal history of all applicants for membership on the board and advise the city council of any

convictions for violations of federal, state or local law.

(d)

Three (3) of the members first appointed by the city council shall serve terms of two (2) years, three (3) shall serve terms of three (3) years and two (2) shall serve terms of four (4) years. Thereafter, members appointed by the city council shall serve terms of three (3) years. The member appointed by the commission on human rights shall serve a term of one (1) year. No member shall serve more than six (6) consecutive years. Vacancies shall be filled for unexpired terms in the same manner as the original appointments.

(e)

The board may recommend to the city council that a board member be removed from the board if the member persistently fails to perform the duties of office.

(Ord. No. 20331, § 1, 7-20-09)

Sec. 21-47. - Officers; meetings; quorum; rules.

(a)

The board shall elect a chair and vice-chair from among its members. The term of these officers shall be one (1) year. The chair shall preside at meetings. The vice-chair shall preside when the chair is absent or otherwise unable to preside.

(b)

The board shall meet monthly. When requested by the board the police chief or the chief's designee shall attend board meetings to serve as an informational resource for the board. The board shall provide an opportunity for public comment at each monthly meeting. The board shall meet semi-annually with the chief of police to discuss issues of concern and to recommend ways that the police can improve their relationship with citizens. The board may also make recommendations regarding policies, rules, hiring, training and the complaint process.

(c)

Five (5) members shall constitute a quorum for conducting business.

(d)

The board may establish rules and procedures that do not conflict with this code or the rules and regulations governing internal affairs investigations.

(e)

Board members shall follow the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics.

(Ord. No. 20331, § 1, 7-20-09)

Sec. 21-48. - Administration and training.

(a)

The city manager shall designate staff for the administration of the board.

(b)

New board members shall participate in orientation and training that includes review of the police professional standard unit's operating policies and procedures and a ride along with police officers. Training shall also include topics suggested by NACOLE in its recommended orientation and training for board members.

(Ord. No. 20331, § 1, 7-20-09)

Sec. 21-49. - Duties.

The citizens police review board shall have the following duties:

(1)

Review appeals from the police chief's decisions on alleged police misconduct as provided for in this article.

(2)

Host public meetings and educational programs for Columbia residents and police officers.

(3)

Review and make recommendations to the police chief and city manager on police policies, procedures and training.

(4)

Prepare and submit to the city council annual reports that analyze citizen and police complaints including demographic data on complainants, complaint disposition, investigative findings and disciplinary actions. The reports should also describe the board's community outreach and educational programs. The reports should also set forth any recommendations made on police policies, procedures and training. The reports shall be submitted no later than March 1 for the previous calendar year.

(Ord. No. 20331, § 1, 7-20-09)

Sec. 21-50. - Internal affairs procedures; police officer rights.

(a)

The city manager shall cause police department rules and regulations to be established that provide for internal affairs investigations. These rules and regulations must be consistent with the provisions of this article and chapter 19.

(b)

Police officers under investigation shall have the following rights in connection with internal affairs investigations:

- (1) The police officer may provide a written or oral statement to an investigator before investigative findings are made.
- (2) The police officer may have an attorney or Columbia Police Officer Association representative present during the officer's interview to observe the interview.
- (3) When practicable, a police officer interview shall be conducted during the officer's normal working hours.
- (4) The police officer may record the officer's interview or obtain a copy of any recording of the interview made by the city.

(Ord. No. 20331, § 1, 7-20-09)

Sec. 21-51. - Complaints; police chief decision on complaint; appeals to board.

- (a) Complaints may be filed with the police department or with the city clerk only by the following:
 - (1) Any person who is an alleged victim of misconduct of a police officer; or
 - (2) Any family member, friend or attorney of an alleged victim of misconduct of a police officer; or
 - (3) Any person who witnessed alleged misconduct of a police officer in person; or
 - (4) Any resident of Boone County.
- (b) The city clerk shall promptly forward complaints to the police chief. Complaints must be filed within one (1) year from the date of the alleged police officer misconduct. The board shall take no action on a complaint alleging misconduct that the police department is treating as a criminal matter unless and until the police determines that the officer's alleged conduct was not criminal or a prosecutor has declined to prosecute the alleged offense or a prosecution of the alleged offense has concluded.
- (c) Unless the complaint has been withdrawn or the police officer is no longer employed by the city, the complaint investigation process shall conclude with a decision by the police chief that the complaint is unfounded (acts complained of did not occur or were misconstrued), the complaint is not sustained (insufficient facts established to either prove or disprove the acts complained of), the complaint is sustained (sufficient facts established to prove misconduct) or the officer is exonerated (acts complained of occurred but were justified, lawful and proper). If the complaint is sustained, the police chief shall take appropriate disciplinary action.
- (d) The police chief shall promptly give written notice of the decision and any disciplinary action to the police officer and the complainant. The notice shall include information on the right and manner of appealing the decision of the chief to the citizens police review board.
- (e) Both the police officer and the complainant have the right to appeal the police chief's decision to the board. An appeal to the board must be made in writing and delivered to the city clerk. The clerk must receive the appeal within twenty-one (21) days after the notice of the chief's decision was given. The appeal must be either hand delivered to the office of the city clerk or sent to the city clerk by United States Mail, facsimile machine or electronic mail.
- (f) When an appeal has been filed, the city clerk shall promptly notify all board members and the police chief. The police chief shall promptly forward to each board member a copy of all police department records pertaining to the complaint and the investigation of the complaint.

(Ord. No. 20331, § 1, 7-20-09; Ord. No. 20722, § 1, 8-16-10; Ord. No. 20764, § 1, 9-20-10)

Sec. 21-52. - Board review and recommendation.

- (a) The board shall review the record of the investigation and may request the police chief to order further investigation. Subject to the availability of appropriated funds, the city shall contract with independent investigators to assist the board in its investigations of alleged police misconduct.
- (b) The board, as part of the review of an appeal, may interview and hear comments from witnesses to the incident under investigation. The board shall not allow comments by the general public as part of the review.
- (c) The police chief and all police officers shall cooperate with the board in its review of appeals from the police chief's decision. Cooperation shall include, but not be limited to, appearing before the board upon request and answering all questions honestly and thoroughly. Failure to cooperate shall be grounds for disciplinary action up to and including dismissal.
- (d)

The board shall provide timely updates on the progress of the review and any follow-up investigation to the complainant and the police officer, unless the specific facts of the review and investigation would prohibit such updates.

- (e) The board may decline further action on an appeal if it determines that the alleged acts of misconduct are false and that the complainant knew they were false when the appeal was filed.
- (f) After completing its review and investigation, the board shall report its findings and recommendations to the city manager, the police chief, the police officer and the complainant.
- (g) If the board agrees with the police chief's disposition of the complaint, it shall give notice to the police officer and the complainant that they have the right to appeal the chief's decision as provided in section 21-53.
- (h) If the board recommends a disposition of the complaint other than the disposition made by the police chief, the chief shall have ten (10) business days to reconsider the original decision and either reaffirm or modify it. The chief shall give written notice of the decision to the board, the city manager, the police officer and the complainant. The police chief shall also give notice to the police officer and the complainant that they have the right to appeal the chief's decision as provided for in section 21-53. If the chief takes no action within ten (10) business days after the date of the board's findings and recommendation, the original decision is automatically reaffirmed and the board shall give notice to the police officer and the complainant that they have the right to appeal the chief's decision as provided for in section 21-53.

(Ord. No. 20331, § 1, 7-20-09)

Sec. 21-53. - Appeals to city manager or personnel advisory board.

After the board's findings and recommendation or, if applicable, the chief's decision after reconsideration, the police officer and the complainant shall have the right to appeal as follows:

- (a) The police officer may appeal the police chief's decision to the personnel advisory board if the officer was suspended, demoted or discharged. The appeal shall be made by filing a written request with the city clerk for a hearing before the personnel advisory board. The request shall set forth the employee's grievance and reasons for appeal. The request must be filed within twenty-one (21) days after the officer was given notice of the right to appeal. The hearing shall be held in accordance with the provisions of chapter 19. The director of human resources shall give the complainant ten (10) days written notice of the hearing. At the hearing, the complainant shall be allowed to testify to the facts of the incident and shall be allowed to express an opinion on the appropriate personnel advisory board action.
- (b) The police officer may appeal the police chief's decision to the city manager if the officer's discipline was other than suspension, demotion or discharge. The appeal shall be made by filing a written statement with the city manager setting forth the employee's reasons for appeal. The request must be filed within twenty-one (21) days after the officer was given notice of the right to appeal. The appeal shall be handled in accordance with the provisions of chapter 19. The city manager shall give notice of the appeal to the complainant and afford the complainant the opportunity to discuss the matter with the city manager.
- (c) The complainant may appeal the police chief's decision to the city manager. The appeal shall be made by filing a written statement with the city manager explaining the reasons for the appeal. The request must be filed within twenty-one (21) days after the complainant was given notice of the right to appeal. The city manager shall give notice of the appeal to the police officer. The officer shall have fourteen (14) days after notice has been given to file a written response to the complainant's appeal with the city manager. The officer and the complainant shall not otherwise communicate with the city manager concerning the complaint. If the employee has also appealed, the procedures of subsection (a) or (b) shall be followed. If the employee has not appealed, and the city manager determines that the alleged facts may merit more severe discipline involving the suspension, demotion or discharge of the police officer, the city manager may refer the matter to the personnel advisory board for a hearing following the procedures set forth in chapter 19. Otherwise, the city manager may act on the appeal as the manager deems appropriate.

(Ord. No. 20331, § 1, 7-20-09)

Sec. 21-54. - Open records and meetings.

- (a) Notwithstanding the provisions of section 2-25.3, all records pertaining to complaints filed against police officers alleging misconduct of the police officer shall be open records, except those closed by state or federal law and except that records or portions of records that would disclose the identity of an officer working undercover shall be closed.
- (b) The board shall not meet in closed session to discuss or hear statements concerning alleged non-criminal misconduct of police officers, except to the extent that the subject matter of the discussions or statements, under state or federal law, cannot be discussed or made in an open meeting and except that the board shall meet in closed session to discuss or hear statements that would involve disclosure of the identity of an officer working undercover.

(Ord. No. 20331, § 1, 7-20-09)

Sec. 21-55. - Mediation.

The board shall develop a mediation process for resolving citizen complaints.

(Ord. No. 20331, § 1, 7-20-09)

Sec. 21-56. - Advocates.

- (a) Every complainant has a right to be assisted by an advocate.
- (b) The board shall recruit and train community members to serve as advocates for complainants and shall maintain a roster of trained advocates. A complainant, however, may choose any person to serve as advocate.
- (c) Every person who inquires about filing a complaint will be offered an advocate. Every person who requests mediation will be encouraged to be assisted by an advocate.
- (d) Advocates shall not be employees of the city and the city shall not compensate them for their services.

(Ord. No. 20331, § 1, 7-20-09)

Sec. 21-57. - Obstructing board operations.

It shall be unlawful for any person, in any manner, to willfully intimidate, influence, impede, deter, threaten, harass, obstruct or prevent another person from freely, fully and truthfully cooperating with the board.

(Ord. No. 20331, § 1, 7-20-09)

Sec. 21-58. - Annual evaluation by council.

Each year, after reviewing the board's annual report, the city council shall review the effectiveness of the board and shall determine whether this article should be modified or repealed.

(Ord. No. 20331, § 1, 7-20-09)