

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 365-20

AN ORDINANCE

amending Chapter 21 of the City Code as it relates to filing deadlines for an appeal or jurisdictional review associated with the Citizens Police Review Board and establishing a provision for variances or waivers upon a finding of good cause; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 21 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

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 community service aide; or
- (2) Any family member, friend or attorney of an alleged victim of misconduct of a police officer or community service aide; or
- (3) Any person who witnessed alleged misconduct of a police officer or community service aide 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 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 or community service aide'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(c) Unless the complaint has been withdrawn or the police officer or community service aide is no longer employed by the city, the complaint investigation process shall conclude with a decision by the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 or community service aide 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 or community service aide 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) The police officer, the community service aide 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 thirty (30) ~~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.

Sec. 21-51.1. Request for jurisdictional review.

(a) Upon a written request, the board shall conduct a jurisdictional review from the decision by the police chief that a person's allegations do not fall within the requirements set forth in this article related to complaints, including but not limited to:

- (1) An appeal of a determination that the complaint or concern was untimely filed, as defined in section 21-51(b).
- (2) An appeal of a determination that the person failed to allege misconduct, as defined in section 21-45.
- (3) An appeal of a determination that the person does not meet the requirements set forth in section 21-51(a).

(b) Requests for limited review pursuant to this section shall be filed with the city clerk within thirty (30) ~~twenty-one (21)~~ days after the person is given notice of the determination by the police chief.

(c) When a request for jurisdictional review 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 the person's allegations, any relevant police or city policies, records relating to any police investigation, and a copy of the police chief's written notice.

(d) The board shall review the records provided to determine if the person timely filed a complaint within the meaning of this article. In reaching its determination, the board shall limit the scope of its review to determine if the police chief's determination was correct. The scope of the board's review shall be limited to a jurisdictional review of the records. The board shall not hear public comment and shall not call witnesses.

(e) If the board agrees with the police chief's determination, the board shall notify the police chief, the police officer or community service aide, and the complainant of its determination. If the board disagrees with the police chief and finds that the complainant has timely filed a complaint, the board shall notify the police chief, the police officer or community service aide and the complainant. The police chief shall proceed with an investigation of the complaint or shall refer the complaint to mediation.

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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, the community service aide and the complainant shall have the right to appeal as follows:

(a) The police officer and community service aide may appeal the police chief's decision to the personnel advisory board if the officer or community service aide 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 thirty (30) days ~~twenty-one (21) days~~ after the officer or community service aide 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 and community service aide may appeal the police chief's decision to the city manager if the officer's or community service aide'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 thirty (30) days ~~twenty-one (21) days~~ after the officer or community service aide 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 thirty (30)~~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 and community service aide. The officer or community service aide 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, the community service aide 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 or community service aide, 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.

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Sec. 21-60. Variance or waiver.

The board may grant a variance from or waive any requirement of this article upon a finding of good cause.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2021.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor