

AN ORDINANCE ENACTING SECTION 5-0400 THROUGH 5-0411
OF ARTICLE 5-04 OF CHAPTER 5 OF THE FARGO MUNICIPAL
CODE RELATING TO THE CITY OF FARGO POLICE ADVISORY
AND OVERSIGHT BOARD

WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Code; and,

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City shall have the right to implement home rule powers by ordinance; and,

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such purposes; and,

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Enactment.

Section 5-0401 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

Sec. 5-0401. Establishment of the Fargo Police Advisory and Oversight Board.

The Fargo Police Advisory and Oversight Board is hereby established.

Section 2. Enactment.

Section 5-0402 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

5-0402. Purpose of the Fargo Police Advisory and Oversight Board.

The purpose of the Fargo Police Advisory and Oversight Board (hereafter "Board") is to advise and assist the City of Fargo and the Fargo Police Department (hereafter "Department") in policy development specific to police-community relations, education, outreach, and other areas of concern to the community. The Board will be tasked with providing review and input in the following areas of community concern:

1. Data evaluation relative to community issues and/or concerns, such as traffic stop and use of force (UOF) demographics;
2. Technology impacts on the community, such as body-worn cameras, facial recognition;
3. Review of completed personnel investigations in accordance with section 5-0409, and/or use of force encounters;
4. Police response to mental health and community impacts;
5. Community training/education topics;
6. Department training topics that would benefit police-community relationships; and
7. Other items identified by the Board and approved by the Chief of Police and Board Chair.

The Board will work to create a dialogue between community representatives and the Department. The Board will work to improve relations between law enforcement and the community, assist with recruitment of diverse candidates, and provide community perspective on policy, programs, and priorities of the Department.

Section 3. Enactment.

Section 5-0403 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

5-0403. Specific duties of the Fargo Police Advisory and Oversight Board.

The Fargo Police Advisory and Oversight Board shall:

1. Be invited to assist the Department with community outreach opportunities as well as suggest community events that through Department participation would benefit community relationships;
2. Advise the Department about community concerns, provide input, and work collaboratively with the Department to address them;
3. Review quarterly and/or annual reports from the Department regarding policies of concern to the community;
4. Review existing Department policies, procedures, and practices related to community concerns and provide feedback; and
5. Review post discipline findings of formal Professional Standards Division Investigations of misconduct by Department members.

Section 4. Enactment.

Section 5-0404 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows:

5-0404. Membership.

The membership of the Fargo Police Advisory and Oversight Board shall be as follows:

1. The Board shall consist of no more than seven (7) members appointed by the board of city commissioners. No more than one (1) member may have served in a former law enforcement role at any time;
2. Membership of the Board will reflect the diversity of the residents of the city of Fargo, including but not limited to ethnicity, race, gender, religion, sexual orientation, disability, socio-economic, and age; and
3. Board members selected shall be individuals with an interest in police and/or community relations.

Section 5. Enactment.

Section 5-0405 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby

enacted to read as follows

5-0405. Qualifications.

Members of the Fargo Police Advisory and Oversight Board shall serve at the pleasure of the board of city commissioners and shall possess the following qualifications to be appointed to the Board:

1. Be at least twenty-one (21) years of age;
2. Be a resident of the city of Fargo;
3. Not be employed by the city of Fargo or be the immediate family member of an employee of the city of Fargo;
4. Not be a member of or the immediate family member of any member of the Fargo board of city commissioners;
5. Be a citizen of the United States;
6. Have no pending criminal charges in any local, state, or federal jurisdiction or court of law;
7. May not have a conviction for any of the following offenses:
 - a. Possession of controlled substances;
 - b. Battery or resist of a law enforcement officer;
 - c. Crimes of dishonesty or false statements; or
 - d. Crimes of moral turpitude, which include charges of prostitution, patronizing a prostitute, promoting prostitution, sale of sexual relations, buying sexual relations, soliciting for immoral purposes, indecent exposure, lewd and lascivious behavior, sodomy, promoting sodomy for hire, patronizing a person offering sodomy for hire, sexual battery, loitering for the purposes of solicitation, indecent liberties with a child, incest, adultery, bigamy, promoting

obscenity, promoting obscenity to minors, displaying material harmful to minors, and possession, sale or distribution of any illegal drug;

- e. May not have been convicted of any felony; and
 - f. May not have been convicted of a misdemeanor domestic violence offense.
8. Is not registered as a sex offender with any state, county, or local government;
 9. Is not an elected local, state, or federal public official or a candidate for any such office;
 10. Is not a party or representative of a party presently making a claim against the city of Fargo for any action or inaction of an employee of the city of Fargo;
 11. Is not a present law enforcement officer or the immediate family member of any such law enforcement officer;
 12. Has not served in a law enforcement role in the 5 years proceeding appointment to the Board;
 13. Has not expressed views or acted in such a manner as to demonstrate bias clearly offensive or antithetical to the mission of the Board; and
 14. Is not in arrears on any amounts due and owing the city of Fargo, or has not otherwise defaulted on an obligation due the city of Fargo.

All applicants for the Board shall be required to submit to a criminal background check in order to verify qualifications are met prior to appointment to the Board.

In addition to the above qualifications, all applicants (or members, where applicable) for appointment and continued membership on the Board must participate in Department provided training of up to 40 hours upon appointment or within three (3) months of appointment by the board of city commissioners, and on an as-needed basis while serving on the Board.

Section 6. Enactment.

Section 5-0406 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows

5-0406. Terms of office.

Members of the Fargo Police Advisory and Oversight Board shall serve four-year terms.

1. Members of the Board shall serve a term of four years. In order to establish staggered terms, appointments shall begin upon Ordinance adoption and formation and will include four (4) members for a four-year term, and three (3) members for a three-year term. Thereafter, all members shall be appointed for a four-year term. No member shall serve more than three terms, or 12 years, whether or not consecutive.
2. In the event a vacancy occurs or the individual no longer meets the eligibility requirements during the term of any member, the board of city commissioners may appoint a successor to serve the unexpired term. A successor appointed to complete an unexpired term shall be eligible to serve up to two consecutive terms in addition to the unexpired term. Notwithstanding the expiration of a member's term, such member may serve until his or her successor has been appointed and qualified.
3. A member may be removed by the board of city commissioners from the Board for the following reasons:
 - a. No longer meets the eligibility requirements described in Section 5-0405;
 - b. Misses more than two consecutive (2) Board meetings or fifty percent of Board meetings in a twelve (12) month period;
 - c. Fails to attend or complete assigned training within the times specified in section 5-0405;

- d. Does not pass the criminal background check in accordance with the criteria set forth in section 5-0405;
- e. Commences and action or makes a claim against the city of Fargo for any action or inaction of an employee of the city of Fargo;
- f. Makes any false statement in the application to serve on the Board;
- g. For such other and further reasons as determined necessary and appropriate by the board of city commissioners.

Section 7. Enactment.

Section 5-0407 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows

Section 5-0407. Meetings and officers.

The Board shall hold regular meetings and minutes shall be kept in accordance with the following:

1. The Board shall meet at least once monthly at the times and places established by the Department. The meetings shall be subject to all applicable provisions of the North Dakota Open Meetings laws. The Department may call additional meetings if necessary to address significant or time sensitive issues.
2. On or before July 1 of each year, the Board shall meet and organize its membership by electing a chairperson and vice-chairperson. The terms of such offices shall be for a period not to exceed two years.
3. An executive member of the Department shall attend all meetings and ensure minutes are kept and presented for approval by the Board at the next meeting.
4. Notice of all meetings shall be issued by the Department.

5. The Director of Equity and Inclusion shall be an Ex Officio non-voting member of the Board.
6. The Board shall abide by the North Dakota Open Meetings and the North Dakota Open Records statutes- North Dakota Century Code §44-04, et. seq.

Section 8. Enactment.

Section 5-0408 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows

5-0408. Recommendations and Operations of the Board.

1. Recommendations of the Board shall be approved by majority vote of the members present and voting. The quorum required for the Board to conduct business shall be the number of members representing at least one half of the total number of members duly appointed to the Board.
2. The Board may adopt lawful rules, regulations, and by-laws, consistent with the provisions of this chapter as it deems necessary for its operation.

Section 9. Enactment.

Section 5-0409 of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby enacted to read as follows

5-0409. Review of post discipline, administrative matters and citizen concerns.

1. In addition to the responsibilities set forth in this Chapter, the Board may review cases of misconduct by Department personnel investigated by the Professional Standards Division (PSD). Only cases which are post discipline may be reviewed. Review shall not be heard until all pending case(s) and any applicable appeals, grievances or other review of the incident have been concluded. A request by the Board to review post discipline findings must be made no later than one year from the date the

discipline was imposed or completion of the investigation by the Professional Standards Division.

2. The Department shall establish all necessary procedures to implement the review of post discipline matters brought before them. Included within these procedures will be notification to applicable police personnel involved in the review in accordance with Department policy. All police reports, videos, interviews or other investigative files submitted to the Board for review shall have the personal identifiers of all involved citizens, witnesses and officers redacted in accordance with North Dakota Open Records provisions.
3. The Board's review will be for the purpose of reviewing and advising the Chief of Police on suggested practices and training relevant to issues or concerns uncovered as part of the investigation.

The Chief of Police shall provide written information to the City Administrator or designee and any involved personnel of the Board's suggestions and recommendations.

Section 10. Effective Date

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

(SEAL)

Dr. Timothy J. Mahoney, M.D., Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage: