

**LL02-2022**  
**PL #xx-22**

By Alderman \_\_\_\_\_, Seconded by Alderman \_\_\_\_\_

**TO ENACT A LOCAL LAW ESTABLISHING A CIVILIAN REVIEW BOARD**

**BE IT ENACTED** by the Common Council of the City of Olean, New York, as follows:

**Section 1. Legislative Intent**

The Common Council finds it is in the best interest of the City of Olean citizens there be established a Civilian Review Board with authority to review Police Department management of citizen complaints concerning misconduct by officers and employees of the City Police Department.

**Section 2. Authority**

This local law is adopted pursuant to the New York State Constitution Article IX, §2(c), which expressly authorizes the City to adopt or amend local laws relating to its affairs which are not inconsistent with the provisions of the Constitution or of any general law.

**Section 3. City of Olean Civilian Review Board**

- A. As a means of increased civilian transparency and oversight, the Civilian Review Board (“CRB or “Board”) is hereby established as a body composed solely of members of the public body with the power to review complaints of police misconduct or excessive force as provided in this law. The intent of this legislation is that the CRB will act as a community liaison to foster positive communication between the public and the Olean Police Department.
- B. The establishment of a Civilian Review Board by this chapter notwithstanding, the sole authority to discipline officers shall remain vested in the Chief of Police or his or her delegates, under the supervision of the Mayor under Section 2.025 of the City Charter or amendments thereto, the New York State Constitution, the New York State Civil Service Law, Section 891 of the Unconsolidated Laws of the State of New York and applicable Collective Bargaining Agreements between the City and the Officers.
- C. Appointment of Members
  - 1. The Civilian Review Board shall consist of seven (7) volunteer members, appointed by the Mayor of the City of Olean, and confirmed by a majority vote of the Common Council.

Applicants for a Board position will be required to apply in an approved format developed and approved by the Mayor and Common Council. Appointment of applicants shall be after an interview process. No individual will be appointed without an application.

Membership of the Board shall aspire to reflect the City's diversity including but not limited to age, race, creed, national origin, gender, gender identity, marital status or source of income.

Initial appointments and subsequent renewal appointments will be 4-year terms.

2. To stand for appointment to the CRB, a prospective candidate must be 18 years of age or older and is required to have resided continuously in the City of Olean, New York, for the preceding one (1) year.

Additionally, membership of the Board shall aspire to consist of community members and not current City of Olean employees.

3. In the event of a vacancy on the Board during the term of office of a member, a successor shall be selected by the Mayor and confirmed by majority vote of the Common Council.

The position will be filled as described in Sections B1, B2, & B3 and the successor shall serve the remaining term of the replaced member.

4. Training is a mandatory requirement for membership on the Civilian Review Board. Comprehensive training protocols will be created by the CRB in conjunction with the City of Olean Police Department, with the approval of the Mayor and Common Council. These standards of training will be provided to each Board member prior to participating in the review of any police misconduct complaints.
5. A CRB member may be removed or suspended from the Board with or without cause by the Mayor with the consent of a majority of the Common Council.

#### D. Powers and Responsibilities of the Civilian Review Board

CRB members shall:

1. Conduct themselves at all times in a manner that will maintain public confidence in the fairness, impartiality, and integrity of the CRB.
2. Recuse themselves from participating in the review of any complaint in which they have a persona, professional, or financial conflict of interest.

#### E. Procedures

1. The CRB shall hold regular monthly business meetings. All meetings are open to the public via electronic means (Zoom, YouTube, etc.). Minutes will be taken of actions of the Board.

2. Four members of the CRB shall constitute a quorum. A quorum must be present to conduct business. Four votes shall be required for any action by the CRB.
3. The CRB shall hold its initial meeting within sixty (60) days after the initial appointments are made. At its initial meeting, the CRB shall select a chairperson and a vice-chairperson and fix the time and place for its regularly scheduled meetings.
4. The CRB shall hold an annual meeting in January of each year to select a chairperson and vice-chairperson, and conduct such other annual meeting as may be required.
5. The CRB shall conduct its public and closed meetings as permitted or required by the New York State Public Officers Law, Article 7, known as the “Open Meetings Law.”

#### F. CRB Reports

The CRB’s first annual report shall be filed with the City within thirteen (13) months of its initial meeting, and subsequent annual reports shall be filed every twelve (12) months thereafter.

#### G. Authority of the Board

1. The Board will have the authority to formally comment in writing on the investigative materials and the action(s) by the Chief of Police arising from an individual’s complaint. Notwithstanding the foregoing, in the event the Chief of Police determines no discipline is warranted and clears an officer of any misconduct, the CRB may create a summary report of the investigation with the officer’s name redacted and provide the summary comments to the Mayor, Chief of Police and the Common Council.

If the Chief of Police determines to issue a notice of dismissal or other disciplinary action after the disciplinary process set forth in the applicable current collective bargaining agreement has concluded, the CRB may formally comment in writing on the investigation and subsequent action and shall provide such comments to the Police Chief, the Mayor and the Common Council President.

It is the intent of this paragraph to allow the CRB to comment on the complaint’s investigation, compliance with procedure and subsequent outcome in order to accomplish the intent of this legislation to foster positive communication between the public and the police force.

2. The Board shall review the complaint process and make recommendations to the Police Chief on how to best ensure that all citizens may file a complaint.
3. A key purpose of the Board is to inform the public about the Civilian Review Board, its duties, and shall administer an ongoing program for the education of the public regarding the provisions of this section.
4. During public board meetings the President shall present updates on the CRB's work, including information and statistics on the number and type of complaints received by the Board.
5. Minutes of each Board meeting shall be taken and, upon approval, be made available to the public in accordance with open meeting law requirements...
6. Civilian Review Board meetings considering citizen complaints shall be held in executive session, so that the evaluation of the matter will be confidential. Any action taken by the CRB will be approved in executive session before adoption.
7. The Board, as an administrative body of the City, has access to the City Attorney.
8. If the CRB has serious concerns that cannot be remedied internally by the City Attorney, Police Chief, or Mayor, shall promptly inform the Common Council in writing of the CRB concerns. The Mayor, the Chair of the Public Safety Committee, and Common Council President will meet privately and confidentially with the CRB within 30 days to determine if CRB concerns in good faith can be resolved. Should there be found to be no acceptable resolution after such meeting, the CRB may formally present a written request that the Common Council and/or the Mayor propose and consider a resolution on its behalf to resolve the matter. Neither the Mayor nor the Common Council shall be required to do so if requested. Nothing in this paragraph is intended to limit or modify the rights of any elected officials hereby.

#### H. Review of CRB Policies and Procedures

1. Except as to negotiated matters included in Agreements currently adopted by the City of Olean and any police bargaining unit, the CRB may provide to the Mayor and the Common Council policy recommendations including any recommendations related to procedures, patterns, practices, and similar matters. Any recommendations or analysis shall be included in the CRB's annual report.
2. The CRB's recommendations may address, but are not limited to: conduct and policies exhibiting bias against individuals based on race, gender, sexual orientation, perceived sexual orientation, gender identity, disability and perceived disability; use of force both lethal and non-lethal; de-escalation policies; vehicle and foot pursuits; use of canines; failure to acknowledge and/or accommodate the needs of people with disabilities including but not limited to physical disabilities,

intellectual and developmental disabilities, psychiatric disabilities, traumatic brain injuries; and human rights issues.

3. Within thirty (30) days of receiving a formal CRB recommendation the Mayor shall seek the input of the Chief of Police.
4. The Mayor shall thereupon consider the matter and provide a timeline to the CRB indicating implementation of each recommendation or an explanation of the determinations not to implement said recommendation.
5. The CRB may make public whether its recommended policy recommendation(s) have been implemented.
6. The CRB, upon a majority vote, may request to the Mayor, specific OPD body camera footage in order to review active complaints and repetitive, related previous complaints that may have policy implications. This request shall not be unreasonably withheld.

#### Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereto to any person, firm, or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

#### Section 5. Effective date

This local law shall take effect immediately upon filing with the Secretary of State.