

CITY OF SANDY OAKS, TEXAS

ORDINANCE NO 2021-181

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS ESTABLISHING A CITIZEN COMPLAINT REVIEW BOARD AND PURPOSE; PROVIDING FOR QUALIFICATIONS, TERMS, AND POWERS AND DUTIES OF BOARD MEMBERS; PROVIDING FOR QUORUM AND VOTING AND MEETINGS; PROVIDING FOR RULES OF PROCEDURE; PROVIDING FOR COOPERATION OF THE SANDY OAKS POLICE DEPARTMENT; PROVIDING FOR EFFECT OF THE BOARD; AND PROVIDING FOR A REPEALER CLAUSE, SEVERABILITY CLAUSE AND EFFECTIVE DATE.

WHEREAS, the City of Sandy Oaks, Texas (“City”) is a Type A General Law Municipality duly organized and incorporated under the laws of the State of Texas; and

WHEREAS, Local Government Code section 51.001 authorizes the governing body of a municipality to adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the City or for the trade and commerce of the municipality and is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, by Ordinance No. 2021-180, the City Council created the Sandy Oaks Police Department (“SOPD” or “Department”); and

WHEREAS, Chief of Police has expressed the need for a paradigm to be implemented due to the growth of the Department and its interaction with the public, citizens and community and to overall gain trust and confidence in the community by being transparent when an issue arises which may be brought forth to the Chief of Police, or the City Administrator or Mayor, in the form of a complaint that is handled impartially and fairly; and

WHEREAS, the City Council desires to establish a review board appointed by the City Council tasked with the duty to review citizen complaints in a fair and impartial manner and provide recommendations to the Chief of Police, or the City Administrator or Mayor, regarding alleged misconduct of a member of the Department subject to a complaint;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS THAT:

SECTION 1. FINDINGS OF FACT. The above recitals are hereby found to be true and correct legislative and factual findings of the City Council of the City and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. CITIZEN COMPLAINT REVIEW BOARD ESTABLISHED AND PURPOSE. There is hereby established the City of Sandy Oaks Citizen Complaint Review Board (the "Board") with the purpose of reviewing and evaluating complaints of alleged misconduct by a police officer of the SOPD:

SECTION 3. MEMBERS OF THE BOARD AND QUALIFICATIONS.

- (a) The Board shall be composed of seven (7) members which comprise of four (4) residents of the City, one (1) SOPD police officer, one (1) employee (non-police) of the City, and one (1) elected official of the City, each appointed by the Mayor or a member of the City Council and approved by the City Council.
- (b) Persons appointed to the Board must:
 - (1) be a qualified voter of the City as that term is defined by Texas Election Code, section 11.002, as amended, and shall have resided in the City for at least six (6) months prior to appointment, except for the members serving in the capacity as the SOPD police officer or employee of the City;
 - (2) be willing to make a commitment to serve their appointed term and thereafter attend meetings as required;
 - (3) be willing to sign and execute a non-disclosure, confidentiality statement to be filed with the City Secretary in a form provided by the City;
 - (4) have no misdemeanor convictions three years prior to appointment (includes class "C" offenses but does not include violations of city traffic ordinances or codes or the Texas Transportation Code) and no felony convictions;
 - (5) have no pending criminal charges before a court of competent jurisdiction over such matters;
 - (6) have no outstanding debts owed to the City;
 - (7) have no outstanding citations issued by the City (except for violations of city traffic ordinances or codes) or legal matters before the City; and
 - (8) attend all, initial as well as periodic, training sessions, conducted by the SOPD.
- (c) To be considered, applicants shall comply with the following appointment procedures:
 - (1) Applicants shall attest to their qualifications as provided in section 3(b); and
 - (2) By applying, applicants agree to a background check to determine eligibility with subsection 3(b)(4) prior to any appointment. Such information shall be furnished to the City Administrator or the Mayor, who will provide the same to the City Council.
- (d) A member who ceases to possess any qualification required for appointment shall automatically vacate the position.

SECTION 4. TERMS.

- (a) Each member of the Board shall be appointed by the Mayor or a member of the City Council and approved by the City Council for a term of two (2) years, with the terms of the initial Board members selected by drawing so that two (2) resident members serve for one (1) year and two (2) resident members serve for two (2) years until such terms are rotated.
- (b) The member serving as the elected official of the Board shall serve as Chair for his or her term and preside over meetings. The Board may elect a Vice Chair to act as Chair and preside over any meeting in the Chair's absence or inability to act as Chair.
- (c) Any vacancy shall be filled in the manner provided by section 4(a) for the remainder of the unexpired term.
- (d) A member's term shall commence in May of each year. If the City Council does not reappoint a member or appoint a new member prior to the start of a new term, the existing member shall continue to serve until the appointment of his or her successor.
- (e) All appointees shall serve at the discretion of City Council.

SECTION 5. POWERS AND DUTIES.

- (a) The Board shall have the power to receive, investigate, hear, and make findings and recommend action to the Chief of Police (or to the City Administrator or the Mayor regarding a citizen complaint against the Chief of Police) upon complaints by members of the public against members of the SOPD that allege misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability. The findings and recommendations of the Board, and the basis, therefore, shall be submitted to the Chief of Police. The findings and recommendations of the Board regarding a complaint against the Chief of Police, and the basis, therefore shall be submitted to the City Administrator or the Mayor. All findings or recommendation must be based upon a sworn complaint or statement. SOPD will not forward to the Board and the Board will not investigate unsworn, unsubstantiated or unfounded complaints.
- (b) The Board shall act as an advisory board to the Chief of Police regarding citizen complaints (or to the City Administrator or the Mayor regarding a citizen complaint against the Chief of Police) and shall make all recommendations regarding the adequacy of an internal affairs investigation to the Chief of Police regarding citizen complaints (or to the City Administrator or the Mayor regarding a citizen complaint against the Chief of Police). Furthermore, the Board shall operate within the following guidelines:
 - (1) The Board shall receive a narrative statement and/or presentation related to the relevant facts and shall have access to the related portions of the investigation file being reviewed including but not limited to any video and/or audio recordings of the incident made the basis of a sworn complaint and related investigation.
 - (2) The Board shall not have access to information designated confidential as a matter of law. The Chief of Police (or to the City Administrator or the Mayor regarding a citizen

complaint against the Chief of Police) shall ensure that no confidential information is provided to the Board.

- (3) Meetings of the Board shall be posted by the City Secretary; however, attendance by any person who is not on the Board or is a member of City staff necessary to assist the function of the Board, shall be subject to approval of the Chief of Police or subject to the approval of the City Administrator or the Mayor regarding a citizen complaint against the Chief of Police.
- (4) Recommendations of the Board shall be an open record and filed with the City Secretary.

SECTION 6. QUORUM AND VOTING.

- (a) A majority of membership of the Board (*i.e.*, 4) shall constitute a quorum for the conduct of business.
- (b) The Board, by majority vote of its membership (*i.e.*, 4), may compel the attendance of witnesses and require the production of such records and other materials as are necessary of the investigation of complaints submitted.

SECTION 7. MEETINGS.

- (a) The Board shall meet as often as necessary to discuss matters within the authority of the Board.
- (b) The Chair of the Board may call meetings as necessary to conduct business.
- (c) The meeting shall be held at a location provided for by the Chief of Police (or by the City Administrator or the Mayor regarding a citizen complaint against the Chief of Police).

SECTION 8. RULES OF PROCEDURE.

- (a) The Board may promulgate rules of procedure, as deemed necessary, including rules that prescribe the manner in which investigations are to be conducted and recommendations made, and the manner by which the complainant is to be informed of the status of his or her complaint. Should the Board fail to adopt its own rules of procedure, the conduct and procedure of the Board meetings shall conform to and be governed by the City's Ordinance regarding meetings and the most recent edition of Robert's Rules of Order.
- (b) At least four (4) members of the Board, including the Chair (or Vice-Chair in the Chair's absence), must be present for any discussion, investigation or recommendation regarding an complaint or for hearing any evidence regarding a complaint.
- (c) In the event that a Board member is related within the second degree of affinity (marriage) or within the third degree by consanguinity (blood) to the officer subject to the complaint or a witness whose testimony or account of the circumstances related to the complaint will be reviewed by the Board or who will be interviewed by the Board, the related Board member

must notify the Board in writing of their relationship and abstain from any discussion or vote regarding any case in which the relationship exists.

- (d) The Board's authority to review and evaluate complaints is limited to sworn complaints in compliance with Texas Government Code, section 614.022, as amended, submitted no later than 30 days after the date of the alleged misconduct by an SOPD police officer (the day after the alleged incident counting as Day 1). Any complaint submitted past the expiration of 30 days after an alleged incident of misconduct will not be considered by the Board
- (e) The Board shall destroy all notes taken at meetings prior to leaving the meeting room. In the event the Board does not make a final recommendation on a sworn complaint, the members of the Board shall give all notes to the Chief of Police for safekeeping until the next meeting that the Board considers the subject complaint.
- (f) Any recording of the meeting is prohibited and the Chief of Police (or City Administrator or Mayor regarding citizen complaints against the Chief of Police) may request a person in attendance remove any recording device, including a cell phone or tablet, from the meeting room until the meeting is concluded. A person may be asked to leave the meeting room upon failure to comply with the request.

SECTION 9. COOPERATION OF DEPARTMENT

- (a) The Department shall provide such assistance as the Board may reasonably request, cooperate fully with investigations by the Board, and provide to the Board, upon request, records and other materials which the Board deems necessary of the investigation of complaints, except such records or materials that cannot be disclosed by law.
- (b) The Chief of Police (or City Administrator or Mayor regarding citizen complaints against the Chief of Police) shall ensure that officers and employees of the Department appear before and respond to inquiries of the Board in connection with the investigation of complaints submitted to the Board, provided that such inquiries are conducted in accordance with any Department procedures for interrogation of members.
- (c) The Chief of Police (or City Administrator or Mayor regarding citizen complaints against the Chief of Police) shall report to the Board regarding any action taken in cases in which the Board submitted a finding or recommendation to the Chief of Police (or City Administrator or Mayor regarding citizen complaints against the Chief of Police) with respect to a complaint.

SECTION 10. EFFECT OF THE BOARD

- (a) The creation of the Board shall not be construed to limit or impair the authority provided in the SOPD Policy Manual and Department General Manual to discipline members of the Department or be construed to limit the rights of members of the Department with respect to disciplinary action, including but not limited to, the right to notice and a hearing, which may be established by state or federal law or by ordinance, resolution, or policy of the City of Sandy Oaks.

- (b) The creation of the Board shall not be construed to prevent or hinder the investigation or prosecution of members of the Department for violations of law by any court of competent jurisdiction, a grand jury, district attorney, or other authorized office, agency or body.

SECTION 11. REPEALER.

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SECTION 12. SEVERABILITY.

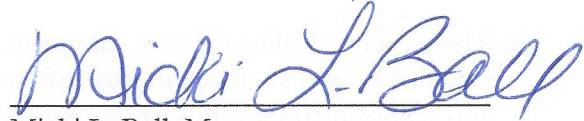
Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

SECTION 13. EFFECTIVE DATE

This Ordinance shall become effective concurrently as the effective date of Ordinance No. 2021-180 adopted by the City Council on March 11, 2021.

PASSED AND APPROVED on this 22nd day of April, 2021.

CITY OF SANDY OAKS, TEXAS



Micki L. Ball, Mayor

ATTEST:


Katherine Yelton, City Clerk