

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF DENTON AMENDING CHAPTER 23 OF THE CITY CODE – POLICE - TO ADD ARTICLE VI, SECTION 23-177, CREATING THE DENTON POLICE DEPARTMENT CHIEF OF POLICE ADVISORY BOARD AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a high level of public trust in the Denton Police Department (DPD) is crucial to public safety and the wellbeing of residents of Denton; as well as to the effective operations of DPD; and

WHEREAS, the United States experiences thousands of police use-of-force incidents annually, resulting in death and injury to both officers and citizens; and

WHEREAS, the City of Denton cherishes the safety of its residents and understands that effective policing must recognize the humanity and dignity of every person and strive to continually address issues of equity in its policies and practices; and

WHEREAS, members of the City of Denton community have led demonstrations and protests to express their concern that the use-of-force by police on persons of color across the United States has been committed in a discriminatory and disproportionate manner that has resulted in injury or death, and the desire to have such policies and practices of the Denton Police Department reviewed; and

WHEREAS, by Resolution No. 20-1110, approved by the City Council on June 25, 2020, the Mayor and City Council of the City of Denton supported the Mayor's pledge to:

- 1) Review police use-of-force policies;
- 2) Engaging the community by including a diverse range of input, experiences, and stories in the review;
- 3) Reporting the findings of the review to the community and seeking feedback; and
- 4) Reforming our community's police use-of-force policies; and

WHEREAS, the Mayor and City Council created the Mayor's Ad-Hoc Use of Force Committee to review, gather community input, and establish clear findings, conclusions and achievable recommendations that promote the use of best practices in the use-of-force policies and training for the Denton Police Department; and

WHEREAS, the Ad-Hoc Use of Force Committee met on ten occasions between June 25, 2020 and September 24, 2020, including two public input sessions, and submitted its findings, conclusions, and recommendations to the Mayor and City Council in a report dated October 5, 2020, attached hereto as Exhibit "A;" and

WHEREAS, the Ad-Hoc Use of Force Committee recommended that Civilian participation with the Denton Police Department was warranted and recommended the creation of a Chief of Police Advisory Board.

**NOW THEREFORE,**

**THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:**

SECTION 1: The findings and recitations contained in the preamble of this Ordinance are incorporated herein by reference.

SECTION 2: Although there is no finding that the Denton Police Department has used force or engaged in policing against persons of color in a discriminatory and disproportionate manner, the City Council finds that an advisory function within the Denton Police Department in the form of a Chief of Police Advisory Board enhances public trust, transparency, and accountability.

SECTION 3: Chapter 23 of the City of Denton Code of Ordinances – Police - is amended to add Article VI, Section 23-177, creating the Denton Police Department Chief of Police Advisory Board.

SECTION 4: Chapter 23 is amended to add Article VI, Section 23-177 to read:

**ARTICLE VI: DENTON POLICE DEPARTMENT CHIEF OF POLICE  
ADVISORY BOARD**

**§23-177-1     DEFINITIONS**

(A) In this Chapter:

- (1) BOARD means the Denton Police Department Chief of Police Advisory Board.
- (2) CITY COUNCIL means the Governing Body of the City of Denton consisting of the Mayor and six (6) Council Members.
- (3) CITY OFFICIAL means a current or former member of the Denton City Council.
- (4) CONFIDENTIAL INFORMATION means any written information that could or must be excepted from disclosure pursuant to the Texas Public Information Act, if such disclosure has not been authorized; or any non-written information which, if it were written, could be excepted from disclosure under the Act, unless disclosure has been authorized by the City Council or City Manager. This includes information that is made confidential by state law, federal law, or common law privacy. When reviewing confidential information, the Police Department shall place identifying marks on any confidential information.
- (5) DEPARTMENT means the Denton Police Department.
- (6) QUORUM means a majority of the voting members of the BOARD are present for a meeting, either in-person or virtually.

- (7) RESPONSE TO RESISTANCE is the Denton Police Department's terminology for a use of force to more accurately describe when an officer is authorized to use force. This term includes but is not limited to the use of deadly force and electronic control devices such as a TASER.

## **§23-177-2 CHIEF OF POLICE ADVISORY BOARD**

The BOARD is an administrative body of the Denton Police Department.

## **§23-177-3 PURPOSE**

The purpose of the BOARD is to provide feedback, advice, and recommendations to the Police Chief on the following matters concerning the Denton Police Department:

- (1) Response to Resistance/Use of Force policy and training, including emphasis on understanding and de-escalating situations.
- (2) Biased-Based Policing/Racial Profiling policy and training.
- (3) Sustained complaints involving a Response to Resistance/Use of Force and Biased-Based Policing/Racial Profiling.
- (4) Review data and trends for Response to Resistance/Use of Force and Biased-Based Policing/Racial Profiling.
- (5) Mental Health, Diversity, and Inclusion of all segments of the community, including persons with physical or intellectual disabilities, and LGBTQ individuals.
- (6) Training of Denton Police officers, particularly the areas in Parts 1, 2 and 5.
- (7) Mental Health and Wellness of Police Officers in general, not of a specific individual officer.
- (8) Policy review and development.
- (9) Community Engagement, Open Communication, Transparency, and Accountability.
- (10) Any other matter that the Police Chief seeks the BOARD's input.

## **§23-177-4 ACCESS TO POLICE DEPARTMENT RECORDS**

- (A) The Chief of Police has the authority and discretion to allow BOARD member access to Police Department records necessary for the BOARD to carry out its stated purpose. This does not include information that is made confidential by Texas Local Government Code Chapter 143.089(g) unless such access is granted by a legislative change to Chapter 143.089(g) or through the Meet and Confer Process.
- (B) The Chief of Police shall support the mission of the BOARD and provide it with the resources necessary to carry out its stated purpose, including a designated liaison.

- (C) If requested by the BOARD, the Chief of Police shall provide Technical Advisors related to the issue being discussed.
- (D) The City of Denton City Attorney's Office shall provide legal advice to the Board as needed.

#### **§23-177-5 COMPOSITION**

The BOARD shall be comprised of eleven (11) individuals selected as follows:

- (A) Seven (7) Citizen Members: Each member of the City Council shall appoint a member to the BOARD.
- (B) The remaining members shall be appointed by the City Manager as follows:
  - a. One officer of the DEPARTMENT at the rank of Assistant Chief or below.
  - b. One member from the Denton Police Officers Association.
  - c. One member from the Denton Municipal Police Association.
  - d. One member from the City Manager's Office.
- (C) The Chief of Police may, at his discretion, appoint up to five (5) non-voting members from other organizations, such as the University of North Texas, Texas Woman's University, and Denton Independent School District. A non-voting member may be removed by the Chief of Police without cause.
- (D) To the extent possible, it is the Council's desire that the citizen membership of the BOARD reflect the diversity of the Denton community.
- (E) The BOARD shall select a chairperson.
- (F) BOARD members shall serve two-year terms.
- (G) BOARD members shall serve no more than three consecutive terms.
- (H) Citizen BOARD members shall not be compensated for their service.

#### **§23-177-6 QUALIFICATIONS TO SERVE**

Citizens appointed to the BOARD must meet the following qualifications:

- (1) Be a resident of the City of Denton.
- (2) Be at least 18 years of age.
- (3) Not currently be an employee of the City of Denton or hold an elected office for the City of Denton.
- (4) Cannot have served as a CITY OFFICIAL for two years prior to his/her date of appointment to the BOARD.
- (5) Not currently employed by or a retired employee of a law enforcement agency (local, county, state, tribal, or federal) or have an immediate family member currently employed by a law enforcement agency.
- (6) Have no pending litigation against the City of Denton or any of its employees, or any financial interest in pending litigation against the City.
- (7) Have no felony convictions or pending felony indictment.
- (8) Have no convictions for Class A or B misdemeanor within the past five (5) years or charges pending in any court.
- (9) Must sign a confidentiality agreement to not disclose CONFIDENTIAL

INFORMATION the BOARD member is privy to by virtue of their appointment to the BOARD to anyone other than other BOARD members or authorized persons involved in the Advisory Board process. A violation of this confidentiality agreement is cause for removal from the BOARD and possible criminal prosecution.

- (10) Must attend required training and meetings of the BOARD, either in person or through electronic medium.
  - (a) The Police Chief shall determine the training curriculum required for BOARD members to serve, which may include attending the Citizen Police Academy.
- (11) Unless expressly provided by the City Charter or City Code, a sitting member of a City Committee, Board, or Commission may be a member of this BOARD. Should a conflict of interest arise in a particular matter coming before the BOARD, the BOARD member with the conflict shall determine whether his/her recusal from voting on that matter is warranted.

### **§23-177-7 REMOVAL**

- (A) Pursuant to Article XIV, Section 14.16 of the City of Denton Charter, citizens appointed to the BOARD by the Council shall serve at the pleasure of the Council. Members of the BOARD may be removed by the Council only for cause and only after being given notice by the Council.
  - (1) If a BOARD member resigns, is removed, or is disqualified, the City Manager shall request another appointee from the Council Member who made the initial appointment. The City Council shall approve or disapprove of the new appointment.
  - (2) There is no appeal process or administrative hearing for a BOARD member that is removed by the Council.
- (B) Members of the BOARD that are appointed by the City Manager pursuant to §23-177-5(B)(a-d) are not subject to Council approval and are subject to removal by the City Manager for cause and only after being given notice by the Manager.
  - (1) If a BOARD member resigns, is removed, or is disqualified, the City Manager shall appoint a new member.
  - (2) If the member that resigns, is removed, or is disqualified is a member of the Denton Police Officers Association or Denton Municipal Police Association, the City Manager shall request the Association(s) to nominate a replacement(s).
  - (3) There is no appeal process or administrative hearing for a BOARD member that is removed by the City Manager.
- (C) Pursuant to the City of Denton Code of Ordinances, Article III, §2-63, should a BOARD member cease to meet the qualifications prescribed in §23-177-6, if applicable, or should such member be convicted of a felony during their term of service, such failure or conviction, as the case may be, shall be cause for removal.

## **§23-177-8 MEETINGS**

- (A) The BOARD shall meet at least quarterly.
- (B) The Chairperson of the BOARD may call a meeting as necessary to conduct business.
- (C) Not only is a quorum of the voting members of the BOARD required to conduct business, to ensure citizen representation, at least four (4) of the seven (7) citizen members with voting privileges must be present (either in person or virtually) for the BOARD to conduct business.
- (D) The Chief of Police shall be responsible for developing the specific processes, Procedures, and conduct of the BOARD consistent with its stated purpose.
  - 1. This process shall include developing an agenda for the BOARD and posting that agenda on the City website at least seventy-two (72) hours prior to the scheduled date and time of a BOARD meeting.
- (E) Despite the posting requirement in Part (D), this Board is expressly exempted from Denton Code of Ordinances §2-29(h) – City Council Rules of Procedure – Creation of Committees, Board and Commissions, and is not subject to the Texas Open Meetings Act.
- (F) The DEPARTMENT’S liaison to the BOARD shall be responsible for keeping and maintaining all records of the BOARD, which shall be maintained and retained as required by State Law.

## **§23-177-9 BOARD RECOMMENDATIONS**

- (A) The BOARD has the authority to make non-binding recommendations to the Police Chief on the issues cited in §23-177-3.
- (B) At the conclusion of a meeting, the BOARD recommendations, if any, shall be reduced to writing.
- (C) The Chief of Police shall endeavor to respond to all BOARD recommendations within twenty (20) calendar days of receipt of the recommendation.
- (D) The Chief’s Response shall state whether he agrees with the recommendation, and if not, why not.
- (E) Documents created by the BOARD, including its recommendations to the Chief of Police and the Chief’s response, are subject to disclosure under the Texas Public Information Act to the extent allowed by law.

## **§23-177-10 PUBLIC STATEMENTS REGARDING THE BOARD’S ROLE**

Semi-annually (twice a year), the Chief of Police shall:

- (1) Create a report for public release that describes the role of the BOARD and its work, including its recommendations, the Chief’s response, and recommendations implemented by the Chief; and

- (2) Provide the City Council with a public briefing of the contents of the report cited in Part (1).

**§23-177-11 AUTHORITY GRANTED TO THE POLICE CHIEF AND CITY MANAGER**

Since it is impossible to consider every scenario that may arise related to the scope and function of the BOARD, the City Manager and Chief of Police are granted the authority to interpret and apply this Ordinance without further Council action provided they do so consistent with the Council's stated intent and purpose for creating this BOARD.

SECTION 5: This Ordinance shall become effective immediately upon its passage and approval.

The motion to approve this Ordinance was made by \_\_\_\_\_ and seconded by \_\_\_\_\_; this Ordinance was passed and approved by the following vote [\_\_\_\_ - \_\_\_\_]:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Chris Watts, Mayor:	_____	_____	_____	_____
Gerard Hudspeth, District 1:	_____	_____	_____	_____
Keely G. Briggs, District 2:	_____	_____	_____	_____
Jesse Davis, District 3:	_____	_____	_____	_____
John Ryan, District 4:	_____	_____	_____	_____
Deb Armintor, At Large Place 5:	_____	_____	_____	_____
Paul Meltzer, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
CHRIS WATTS, MAYOR

ATTEST:  
ROSA RIOS, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
AARON LEAL, CITY ATTORNEY

BY: \_\_\_\_\_