

AN ORDINANCE AMENDING CHAPTER 19, POLICE, TO ADD SECTION 19-18, INVESTIGATION AND DISCIPLINARY PROCEEDINGS IN ACCORDANCE WITH SECTION 590.502 RSMO.

WHEREAS, The State of Missouri has enacted Section 590.502 RSMo., Rights of Law Enforcement Officer Under Administrative Investigation.

WHEREAS, the Board of Alderpersons, desires to comply with this law by adding provisions for same to Chapter 19 of the Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED BY THE BOARD OF ALDERPERSONS OF THE CITY OF HILLSBORO, MISSOURI, AS FOLLOWS:

SECTION 1. That Section 19-18 “Investigation and Disciplinary Proceedings” be added to hereinafter read as follows:

1. Whenever a police officer is under administrative investigation or is subjected to administrative questioning that the officer reasonably believes could lead to disciplinary action, demotion, dismissal, transfer or placement on a status that could lead to economic loss, the investigation or questioning shall be conducted under the following conditions:
 - a. The police officer who is the subject of the investigation shall be informed, in writing, of the existence and nature of the alleged violation and the individuals who will be conducting the investigation. Notice shall be provided to the officer along with a copy of the complaint at least twenty-four hours prior to any interrogation or interview of the officer;
 - b. Any person, including police officers of the City of Hillsboro, filing a complaint against a police officer shall have the complaint supported by a written statement outlining the complaint that includes the personal identifying information of the person filing the complaint. All personal identifying information shall be held confidential by the police department or the City of Hillsboro.
 - c. When a police officer is questioned or interviewed regarding matters pertaining to his or her police duties or actions taken within the scope of his or her employment, such questioning shall be conducted for a reasonable length of time and only while the officer is on duty unless reasonable circumstances exist that necessitate questioning the officer while he or she is off duty;
 - d. Any interviews or questioning shall be conducted at a secure location at the police department unless the officer consents to another location;
 - e. Police officers shall be questioned by up to two investigators and shall be informed of the name, rank, and command of the investigator or investigators conducting the investigation; except that separate investigators shall be assigned to investigate alleged department policy violations and alleged criminal violations;

- f. Interview sessions shall be for a reasonable period of time. There shall be times provided for the officer to allow for such personal necessities and rest periods as are reasonably necessary;
- g. Prior to an interview session, the investigator or investigators conducting the investigation shall advise the law enforcement officer of the rule set out in Garrity v. New Jersey, 385 U.S. 493 (1967), specifically that the police officer is being ordered to answer questions under threat of disciplinary action and that the officer's answers to the questions will not be used against the officer in criminal proceedings;
- h. Police officers shall not be threatened, harassed, or promised rewards to induce them into answering any question; except that, police officers may be compelled by their employer to give protected *Garrity* statements to an investigator under the direct control of the City of Hillsboro, but such compelled statements shall not be used or derivatively used against the officer in any aspect of a criminal case brought against the officer;
- i. Police officers under investigation are entitled to have an attorney or any duly authorized representative present during any questioning that the police officer reasonable believes may result in disciplinary action. The attorney or representative shall be permitted to confer with the officer but not unduly disrupt or interfere with the interview. The questioning shall be suspended for a period of up to twenty-four hours if the officer requests representation;
- j. Prior to the police officer being interviewed, the officer and his or her attorney or representative shall have the opportunity to review the complaint;
- k. The agency conducting the investigation shall have ninety days from receipt of a citizen complaint to complete such investigation. The agency shall determine the disposition of the complaint and render a disciplinary decision, if any, within ninety days. The agency may, for good cause, petition the administering authority overseeing the administration of discipline for an extension of time to complete the investigation. If the administering authority finds the agency has shown good cause for the granting of an extension of time to complete the investigation, the administering authority shall grant an extension of up to sixty days. The agency is limited to two extensions per investigation; except that, if there is an ongoing criminal investigation there shall be no limitation on the amount of sixty-day extensions. For good cause shown, the internal investigation may be tolled until the conclusion of a concurrent criminal investigation arising out of the same alleged conduct. Absent consent from the officer being investigated, the administering authority overseeing the administration of discipline shall set the matter for hearing and shall provide notice of hearing to the police officer under investigation. The officer shall have the right to attend the hearing and to present evidence and arguments against extension;
- l. Within five days of the conclusion of the administrative investigation, the Chief of Police shall inform the officer, in writing, of the investigative findings and any recommendation for further action, including discipline;
- m. A complete record of the administrative investigation shall be kept by the police department. Upon completion of the investigation, a copy of the entire record,

including, but not limited to, audio, video, and transcribed statements, shall be provided to the officer or the officer's representative within five business days of the officer's written request. The police department may request a protective order to redact all personal identifying witness information; and

- n. All records compiled as a result of any investigation subject to the provisions of this section shall be held confidential and shall not be subject to disclosure under chapter 610, except by lawful subpoena or court order, by release approved by the officer, or as provided in *section 590.070 RSMo*.
2. Police officers who are suspended without pay, demoted, terminated, transferred, or placed on a status resulting in economic loss shall be entitled to a full due process hearing. The components of the hearing shall include, at a minimum:
 - a. The right to be represented by an attorney or other individual of their choice during the hearing;
 - b. Seven days' notice of the hearing date and time;
 - c. An opportunity to access and review documents, at least seven days in advance of the hearing, that are in the employer's possession and that were used as a basis for the disciplinary action;
 - d. The right to refuse to testify at the hearing if the officer is concurrently facing criminal charges in connection with the same incident. A police officer's decision not to testify shall not result in additional internal charges or discipline;
 - e. A complete record of the hearing shall be kept by the City of Hillsboro for purposes of appeal. The record shall be provided to the officer or his or her attorney upon written request;
 - f. The entire record of the hearing shall remain confidential and shall not be subject to disclosure under chapter 610, except by lawful subpoena or court order.
 3. Any decision, order, or action taken following the hearing shall be in writing and shall be accompanied by findings of fact. The findings shall consist of a concise statement upon each issue in the case. A copy of the decision or order accompanying findings and conclusions along with the written action and right of appeal, if any, shall be delivered or mailed promptly to the police officer or to the police officer's attorney or representative of record.
 4. Police officers shall have the opportunity to provide a written response to any adverse materials placed in their personnel file, and such written response shall be permanently attached to the adverse material.
 5. Police officers shall have the right to compensation for any economic loss incurred during an investigation if the officer is found to have committed no misconduct.

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

SECTION 3. This ordinance shall be codified.

READ BY TITLE TWO TIMES, COPIES OF THE PROPOSED ORDINANCE HAVING BEEN MADE AVAILABLE FOR PUBLIC INSPECTION AT THE PLACE OF THE MEETING PRIOR TO THE TIME THE BILL WAS UNDER CONSIDERATION BY THE BOARD OF ALDERPERSONS, AND PASSED BY THE BOARD OF ALDERPERSONS OF THE CITY OF HILLSBORO, MISSOURI, THIS 4th DAY OF December, 2023.

Buddy Russell
Buddy Russell, Mayor

APPROVED THIS 4th DAY OF
December, 2023.

Buddy Russell
Buddy Russell, Mayor

ATTEST:

Beth Vreeland
Beth Vreeland, City Clerk