

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 4.08 of the Lincoln Municipal Code relating
2 to the Citizen Police Advisory Board by amending Section 4.08.010 relating to the powers and
3 duties of the Board to provide that the Board shall have no jurisdiction to hear complaints or conduct
4 an investigation while a criminal or civil action relating to the complaint is pending against either
5 the complainant or the officer or officers involved; amending Section 4.08.020 relating to the
6 jurisdiction of the Board to provide the Board shall lose jurisdiction over a complaint if the
7 complainant files a civil action relating to the same facts as the complaint before them; amending
8 Section 4.08.030 relating to complaints made to the Citizen Police Advisory Board to provide that
9 the chairperson may dismiss certain types of complaints, subject to review by the Board as a whole;
10 and repealing Sections 4.08.010, 4.08.020, and 4.08.030 of the Lincoln Municipal Code as hitherto
11 existing.

12 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

13 Section 1. That Section 4.08.010 of the Lincoln Municipal Code be amended to read
14 as follows:

15 **4.08.010 Purpose; Board Created; Powers and Duties.**

16 A properly administered mechanism for review of complaints concerning police procedures
17 and policies would serve both the professional interests of the Lincoln Police Department and the
18 general interests of the community by fostering better police-community relations and by
19 maintaining police services commensurate with the expectations of the community. Therefore, there
20 is hereby created for the administration of this chapter a Citizen Police Advisory Board which shall

1 be composed of seven members who shall serve without remuneration. Said board shall be
2 appointed by the Mayor and approved by the City Council and shall consist of seven individuals
3 who shall be representative of a cross-section of the citizens of the community. Three of the
4 members first appointed shall serve for a period of one year, three for a period of two years, and one
5 for a period of three years. Thereafter, each appointee shall serve for a period of three years. Any
6 vacancy occurring shall be filled in the same manner as provided for in the original appointment.
7 The board herein established shall operate as a mechanism to review complaints of alleged police
8 misconduct by the use of excessive force, abuse of authority, or extreme discourtesy, and shall also
9 hear complaints of a general nature concerning the policies and procedures of the Lincoln Police
10 Department. The board shall review and investigate such complaints and shall submit written
11 reports of its findings and recommendations as hereinafter set forth. The board shall have no
12 jurisdiction to hear complaints or conduct an investigation while a criminal ~~or civil~~ action relating
13 to the complaint is pending against either the complainant or the officer or officers involved, ~~unless~~
14 ~~the defendant in the pending criminal or civil action agrees in writing that the board shall have~~
15 ~~jurisdiction.~~ The board shall meet at least once a year and shall at that time elect a chairperson from
16 among its members and adopt rules and regulations for the conduct of meetings of the board. Legal
17 service shall be provided by an attorney from the office of the City Attorney. One officer from the
18 Police Department in addition to the designated members shall serve as a nonvoting liaison member
19 of the board.

20 Section 2. That Section 4.08.020 of the Lincoln Municipal Code be amended to read
21 as follows:

1 **4.08.020 Complaints in Writing; Time Limit.**

2 Complaints must be filed in person within forty-five days of the alleged occurrence of the
3 use of excessive force, abuse of authority, or extreme discourtesy on the part of a police officer or
4 officers. However, if a criminal ~~or civil~~ action relating to the complaint is pending against either
5 the complainant or the officer or officers involved ~~and the defendant in the pending criminal or civil~~
6 ~~action does not agree that the board shall have immediate jurisdiction~~, then such forty-five day time
7 ~~limit shall not commence to run until the termination of such criminal or civil action~~ period shall
8 start from the rendering of a verdict on the criminal action. Should the complainant file a civil
9 action regarding any of the facts of this matter, the Citizen Police Advisory Board will lose
10 jurisdiction over any complaint relating to those same facts. All complaints shall be on a form
11 approved by the board and shall be signed by the complainant. Complaints may be filed by
12 aggrieved parties or by interested persons or interested organizations. All complaints shall be filed
13 in the office of the Mayor of the City of Lincoln and shall be handled in a confidential manner so
14 as to avoid publication of the names of the complainant, witnesses, or officers involved therein.
15 Before acceptance of a complaint for filing, inquiry shall be made of the complainant or
16 complainants as to whether or not the Police Department has been contacted concerning the
17 complaint, and if not, whether or not the complainant or complainants desire to see review of the
18 complaint by the Police Department before filing the complaint with the Citizen Police Advisory
19 Board. However, the complainant or complainants shall not be required to seek review of the
20 complaint by the Police Department as a precondition to filing the complaint for review by the
21 Citizen Police Advisory Board.

22 Section 3. That Section 4.08.030 of the Lincoln Municipal Code be amended to read
23 as follows:

1 **4.08.030 Copy of Complaint to Police Department; Rules of Procedure.**

2 Upon receipt of a complaint as set out above, the office the Mayor shall forward a copy of
3 such complaint to the Police Chief and members of the Citizen Police Advisory Board. The
4 chairperson shall determine whether the complaint is redundant to other unsustained complaints
5 previously filed by the same party, filed out of time, filed against parties other than members of the
6 Lincoln Police Department, or is wholly frivolous on its face. In such event, the chairperson may
7 dismiss the complaint; however, any complaint so dismissed shall be reviewed at the next regular
8 meeting of the Citizen Police Advisory Board and the Board as a whole shall either ratify the
9 decision of the chairperson or overturn the same. Should the Citizen Police Advisory Board
10 overturn the decision of the chairperson, then the complaint shall be investigated and the time
11 periods as hereinafter set forth shall start with that decision. Thereupon, the chairperson shall
12 designate two members of the board, which designation shall be upon a rotating basis when possible,
13 to meet informally with the complainant or complainants, police officer or officers involved in the
14 complaint, and two members of the Police Department to be designated by the Police Chief. The
15 informal meeting shall be held as soon as possible, not exceeding thirty working days after the
16 receipt of the complaint. At the informal meeting, an attempt shall be made to resolve the problem
17 or problems, if any, raised in the complaint filed against the Police Department by conference and
18 conciliation. The board members participating in the informal meeting shall report to the board at
19 a full public meeting of the board held within fifteen working days after the conclusion of such
20 initial informal meeting, and shall advise the board as to the proceedings and result of such meeting.
21 The report of the members shall indicate whether (a) there was or was not a basis for the allegations
22 of the complaint; (b) whether the complaint was resolved by the meeting; (c) whether another
23 meeting or meetings will be held to further attempt to resolve the complaint; or (d) whether the

1 complaint is not likely to be resolved through the informal meeting procedure. If the complaint has
2 been resolved at the informal meeting, no further action shall be taken by the board. However, if
3 the complainant is not satisfied with the results of the informal meetings, and resolution of the
4 complaint through further informal meetings appears unlikely, then the full board shall consider the
5 report of the Internal Affairs Unit and the report of the board members participating in the informal
6 meetings and, based upon those reports, shall submit a report and recommendation as hereinafter
7 set out. Throughout all informal meetings and public hearings by the full board, and in all reports
8 of the board, the names of the complainants and officers involved shall remain confidential.

9 Section 4. That Sections 4.08.010, 4.08.020, and 4.08.030 of the Lincoln Municipal
10 Code as hitherto existing be and the same are hereby repealed.

11 Section 5. That this ordinance shall take effect and be in force from and after its
12 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2008: _____ Mayor
