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ARTICLE XVI. – POLICE CIVILIAN OVERSIGHT BOARD
AN ORDINANCE TO AMEND AND REENACT THE PROVISIONS OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990), AS AMENDED, CHAPTER 2 (ADMINISTRATION)

WHEREAS, the Charlottesville City Council previously enacted an ordinance establishing a Charlottesville Police Civilian Review Board and codified the ordinance within Chapter 2, Article XVI of the Code of the City of Charlottesville (1990), as amended; and

WHEREAS, on October 28, 2020 the Virginia General Assembly enacted House Bill 5055, which expressly authorizes the governing body of a locality to establish a law enforcement civilian oversight body; and

WHEREAS, City Council hereby finds that it is in the public’s best interests to amend Chapter 2, Article XVI of the City Code to dissolve the City’s Police Civilian Review Board and to establish a Police Civilian Oversight Board in conformity with Virginia Code § 9.1-601 and to empower the Police Civilian Oversight Board with certain additional oversight authority and duties enabled by the statute.

NOW, THEREFORE, BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Article XVI within Chapter 2 of the Code of the City of Charlottesville (1990) is amended and reenacted, as follows:

ARTICLE XVI-POLICE CIVILIAN OVERSIGHT BOARD

Sec. 2-450.-Title

This article shall be known as the Charlottesville Police Civilian Oversight Board Ordinance.

Sec. 2-451.-Police Civilian Oversight Board Established

Pursuant to Virginia Code §9.1-601, there is hereby established a Charlottesville Police Civilian Oversight Board, which shall be referred to as “the Board” with powers granted as provided within this ordinance. The Board is a public body appointed by the City Council of Charlottesville to advise and to perform functions delegated by the City Council. It shall not be able to bring suit or to be sued in its own name, except to the extent needed to request and defend subpoenas as authorized by this ordinance.

Sec. 2-452.-Powers and Duties of the Police Civilian Oversight Board.

(a) Purpose. The purpose of the Board is to increase and maintain trust between and among the Charlottesville Police Department, the City Council, the City Manager, and the public. The Board shall provide

- (1) timely, fair and objective review and evaluation of City policing policies, practices and procedures, and of their implementation;

- 39 (2) timely, fair and objective review of investigations by the Police Department of incidents
40 involving the Charlottesville Police Department;
- 41 (3) timely, fair and objective investigations of serious incidents of police misconduct;
- 42 (4) meaningful assessments and corrective recommendations intended to maintain and
43 promote non-discriminatory policing;
- 44 (5) recommendations for actions and reforms to ensure the protection of all communities,
45 including recommendations for strategies to implement the identified reforms.

46
47 **(b) Objectivity.** It is of fundamental importance that members of the Board shall be fair and
48 objective in the conduct of their duties, and that they be perceived as fair and objective in the conduct
49 of their duties.

50
51 **(c) Powers and Duties.** The Police Civilian Oversight Board shall have the following powers and
52 duties, as authorized within this ordinance:

- 53
54 (1) To receive, investigate, and issue findings on complaints from civilians regarding the
55 conduct of law enforcement officers and civilian employees of the Charlottesville Police
56 Department;
- 57 (2) To investigate and issue findings on incidents, including the use of force by a law
58 enforcement officer, death or serious injury to any individual held in custody, serious
59 abuse of authority or misconduct as defined in this section, allegedly discriminatory
60 stops, and other incidents regarding the conduct of law enforcement officers and
61 civilian employees of the Charlottesville Police Department;
- 62 (3) At the conclusion of any investigation conducted pursuant to paragraphs (1) and (2),
63 above, and consistent with the Board’s findings in the investigation, to recommend to
64 the Chief of Police disciplinary action in cases that involve serious breaches of
65 departmental and professional standards, as defined within Board Operating
66 Procedures adopted pursuant to Sec. 2-459;
- 67 (4) To investigate policies, practices, and procedures of the Police Department and to make
68 recommendations regarding changes to such policies, practices and procedures, as set
69 forth within Sec. 2-461 of this article;
- 70 (5) To review investigations conducted internally by the Police Department, as set forth in
71 Sec. 2-458 of this article, including internal investigations of civilians employed by the
72 Police Department, and to issue findings regarding the accuracy, completeness, and
73 impartiality of the investigations and the sufficiency of any discipline resulting from such
74 investigations;
- 75 (6) To request reports of the annual expenditures of the Police Department, and to make
76 budgetary recommendations to the City Council concerning future appropriations;
- 77 (7) To make public reports on the activities of the Police Civilian Oversight Board, including
78 investigations, hearings, findings, recommendations, determinations and oversight
79 activities;
- 80 (8) To hold hearings and, if, after making a good faith effort to obtain voluntarily the
81 attendance of witnesses and the production of books, papers, and other evidence
82 necessary to perform its duties, the Board is unable to obtain such attendance or

83 production, to apply to the Circuit Court for the City of Charlottesville for a subpoena
84 compelling the attendance of such witness or the production of such books, papers and
85 other evidence, and the court may, upon good cause shown, cause the subpoena to be
86 issued. Any person so subpoenaed may apply to the Charlottesville Circuit Court to
87 quash it; and

88 (9) To undertake other duties, as reasonably necessary, for the Board to effectuate its
89 lawful purpose as provided for in this article, to effectively oversee the Police
90 Department.

91
92 **(d) Definition of “serious abuse of authority or misconduct.”** “Serious abuse of authority or
93 misconduct” shall include the following:

94

95 (1) Verbal or other conduct regarding an individual or group that maligns or shows hostility
96 for the individual or group because of race, color, religion, gender, national origin, age,
97 disability, sexual orientation, or gender identity and expression;

98 (2) Harassment or discrimination based on race, color, sexual orientation, gender, religion,
99 national origin, marital status, age, familial status, immigration status or disability;

100 (3) Acting in a rude, careless, angry, retaliatory or threatening manner not necessary for
101 self-defense;

102 (4) Reckless endangerment of a citizen, detainee, or person in custody;

103 (5) Violation of laws or ordinances;

104 (6) Criminal or other misconduct occurring on or off the job which is related to job
105 performance or is of such a nature that to continue the employee in the assigned
106 position or in any City employment capacity would constitute negligence in regard to
107 the City’s duties to the public or to other City employees;

108 (7) In any matter within the jurisdiction of any officer, department or agency of the City: (a)
109 the knowing falsification, concealment or cover-up of a material fact, and/or (b) the
110 knowing making of any false, fictitious or fraudulent statement or representation,
111 and/or the making or using of any writing or document knowing the same to contain a
112 false, fictitious or fraudulent statement or entry;

113 (8) Sexual conduct, even consensual conduct, on the job; and

114 (9) Other serious violations of Charlottesville or CPD policies or procedures, including the
115 CPD Code of Conduct.

116
117 **(e) Access to Police Department Information.** The Board is authorized to receive and shall be
118 provided full access to all Police Department reports, files and records related to Board investigations of
119 complaints and incidents, or its review of Police Department internal affairs investigations, as authorized
120 in this ordinance. All records, documents and materials in the possession of the Police Department or
121 the City that are determined by the Board to be necessary and requested by the Board to carry out its
122 authorized powers and responsibilities shall be provided to the Board subject to Board procedures
123 adopted, with Council approval, for the protection of confidential information as defined in such
124 procedures. Within 45 days of the enactment of this Article, the Board and the Police Department shall
125 prepare and execute a Memorandum of Understanding (“MOU”) setting forth how this access shall be
126 given, and under what circumstances it might be made available to the parties.

127 **(f) Confidential Information.** Records containing confidential information such as information
128 protected by law, personally identifiable information, information that may reveal the identity of a
129 confidential source, information that could endanger the life or physical safety of any individual,
130 information that would disclose techniques, procedures, or guidelines used in criminal investigations or
131 prosecutions that if revealed may reasonably be expected to risk the circumvention of the law, or
132 information eligible for exemption from the mandatory disclosure requirements under the Virginia
133 Freedom of Information Act, may be reviewed only in a properly convened closed session of the Board
134 to maintain the confidentiality of the information.

135
136 **(g) Other Sensitive Information.** The Executive Director and the Board shall not have access to
137 juvenile records, records that may reveal the identity or personally identifiable information of a
138 confidential informant or records which the Police Department is not legally authorized to share. The
139 Police Department shall not provide records to the Board if the records requested are related to the
140 following matters if such disclosure would compromise said matters through the revelation of the
141 process, evidence, methods, scope or other factors in said matters, until such time as the matter is
142 completed or a determination is made by the City Manager that the matter will not be compromised by
143 the release of the requested documents:

- 144
145 (1) investigative files for an active criminal investigation;
146 (2) files related to an active investigation by the Commonwealth Attorney, the Virginia
147 Attorney General, or the United States Department of Justice;
148 (3) files related to an active EEOC claim involving a City Police Department officer or
149 employee;
150 (4) files related to an active Human Rights investigation involving a Police Department
151 officer or employee.

152
153 **(h) Commencement of Powers and Duties.** The Police Civilian Oversight Board shall not exercise
154 the powers and duties set forth within paragraphs (c)(1)-(9), or any of said paragraphs, until City Council
155 approves Operating Procedures, after consultation with the Board, pursuant to sec. 2-466 of this article.

156

157 **Sec. 2-453.- Police Civilian Oversight Board Membership Appointment, and Terms.**

158

159 **(a) Appointment Process.** The City Council shall appoint the members of the Police Civilian
160 Oversight Board. The Council shall announce a public application process with applications available
161 online and by hardcopy in English and Spanish for individuals interested in serving on the Police Civilian
162 Oversight Board. Council will seek to appoint fair-minded and objective members with a demonstrated
163 commitment to community service who have training and experience with topics relevant to the
164 business of the Board, including law, police practices, human resources practices and procedures,
165 trauma-informed mental health issues, and the sociology of historically over-policed communities.

166
167 **(b) Board composition.** The Board shall reflect the demographic diversity of the City of
168 Charlottesville. The Board shall be composed of seven voting members and one non-voting member

169 appointed by the City Council. The members shall be removable by the City Council for cause as
170 specified in the Board Code of Conduct or other good cause.

- 171 (1) The Board shall include at least three members who come from historically
172 disadvantaged communities that have traditionally experienced disparate policing or
173 who are residents of public housing.
- 174 (2) The Board may include at least one other member who represents an organization that
175 seeks racial or social justice on behalf of historically disadvantaged communities.
- 176 (3) The non-voting member of the Board shall be an individual with policing expertise or
177 experience. The non-voting member may be a retired law enforcement officer who prior
178 to his or her retirement was employed in a locality similar to the City of Charlottesville.
- 179 (4) The seven voting members of the Board shall be residents of the City of Charlottesville,
180 except that the member who represents an organization that seeks racial or social
181 justice on behalf of historically disadvantaged communities shall either be a resident of
182 the City of Charlottesville or the organization they represent shall perform advocacy on
183 behalf of City of Charlottesville residents.
- 184 (5) The non-voting member of the Board need not be a resident of the City of
185 Charlottesville.
- 186 (6) No Board member shall be a current candidate for public office, a former member of the
187 Charlottesville Police Department, an immediate family member of a current
188 Charlottesville Police Department employee, or a current employee of a law
189 enforcement agency, including but not limited to a current employee of the
190 Charlottesville Police Department, Fire Department, Emergency Communications
191 Center, or Sheriff's Office. In appointing a Board member who is employed by the City
192 of Charlottesville, Council will avoid potential conflicts of interest.

193
194 **(c) Terms.** Each member of the Board shall be appointed for a term of three years, which term for
195 any particular Board member may be extended for an additional period of time, in the determination of
196 the City Council, to provide for staggering as deemed appropriate and necessary.

197
198 **(d) Vacancies.** If a Board member's service on the Board ends before the conclusion of the Board
199 member's term or any extended term, the City Council shall appoint an individual to complete the
200 remainder of the term.

201
202 **(e) Conflicts of Interest.** No Board member may participate in the consideration of a Complaint of
203 someone who is a family member, or someone with whom the Board member has financial interests. In
204 determining whether a Board member has a conflict of interest, the Board member shall keep in mind
205 that they should not participate in a matter in which the objectivity of the Board member could
206 reasonably be questioned.

207
208 **(f) Maintaining Confidentiality.** Except as included in the Board reports as hereafter defined and
209 to the extent allowed under the Virginia Freedom of Information Act, each member shall maintain the
210 confidentiality of all confidential or privileged information, including but not limited to:

- 211 (1) Materials from Police internal investigative files mentioned in Section 2-452(g);

- 212 (2) disciplinary actions, memos and reports that the member receives during service on the
- 213 Board;
- 214 (3) statements of a police officer or civilian employee, who was required by the
- 215 Police Department to give a statement;
- 216 (4) criminal investigative files;

217 **(g) Police Department Records.** All original records provided to the Board by the Police Department
218 shall remain official Police Department records.

219 **(h) Grounds for Removal.** Any breach of confidentiality by a Board member, as determined
220 by the City Council, shall result in removal from the Board. Board members may also be
221 removed by the City Council for violations of the Board’s Code of Ethics, or any other
222 Malfeasance or Misfeasance.

223 **Sec. 2-454. – Meetings.**

224 **(a) Number of meetings.** The Charlottesville Police Civilian Oversight Board shall hold public
225 meetings at least once per calendar quarter. Additional meetings may be called by the Chair or
226 any two Board members.

227 **(b) FOIA.** The Board shall comply with all requirements of the Virginia Freedom of
228 Information Act pertaining to disclosure of public records and the conduct of public meetings,
229 including the requirement that all meetings shall be open to the public except under
230 circumstances when the topic is authorized by the law to be discussed in a closed meeting.

231
232 **(c) Quorum.** The Board may take action by motion or resolution upon an affirmative
233 majority vote provided a quorum of at least four (4) out of seven (7) voting members must be
234 present. On measures involving a review request, finding of fact, or disciplinary
235 recommendations related to an incident or complaint, a quorum of at least five (5) voting
236 members is required.

237
238 **(d) Minutes.** The Board shall keep minutes of its Board meetings, and those minutes shall
239 include:

- 240
- 241 (1) the date, time, and location of each meeting;
- 242 (2) the members present and absent;
- 243 (3) a summary of the discussion on matters proposed, deliberated, or decided; and
- 244 (4) a record of any votes taken.

245 (e) **Rules of Order.** All meetings of the Board shall be conducted in accordance with
246 Robert's Rules of Order or such other procedures as the Board may adopt. Hearings of the
247 Board shall be conducted in accordance with the Police Civilian Oversight Board Operating
248 Procedures.

249 **Sec. 2-455.-Police Civilian Oversight Board Executive Director**

250 (a) **Appointment.** The City Manager shall appoint a Police Civilian Oversight Board
251 Executive Director with the approval of a majority vote of the City Council.

252 (b) **Appointment Process.** As a part of the Board Executive Director appointment process,
253 the City Manager shall convene an interview panel that includes two members of the Board. If
254 the two members of the Board serving on an interview panel recommend a candidate for
255 appointment as Executive Director, the City Manager shall provide a written justification to the
256 Board if a different candidate is appointed.

257 (c) **Duties.** The duties of the Executive Director shall be to support the Board in the
258 implementation and exercise of all of its functions authorized under this ordinance and to
259 undertake or ensure the performance of specific oversight tasks assigned by the Board ,
260 including the oversight of investigations conducted by the Police Department. As authorized by
261 the City Manager or their designee, the Executive Director may engage the services of such
262 investigators in accordance with City Code Sec. 2-156 as may be necessary.

263 (d) **Supervision of the Executive Director.** The City Manager shall be responsible for day-to-
264 day supervision of the Executive Director, and may delegate that responsibility to a Deputy City
265 Manager. The City Manager's annual evaluation of the Executive Director's performance shall
266 include consideration of a written performance review submitted by the Board to the City
267 Manager. The Board may at any time, by a majority vote, request a conference between the
268 Board's Chair and the City Manager to discuss the Executive Director's performance, including
269 concerns that may warrant disciplinary action.

270 (e) **Vacancy.** If there is a vacancy in the position of Executive Director, the City Manager or
271 their designee may designate some other City employee who is not an employee of the Police
272 Department to act as Executive Director until a new Executive Director is hired.

273 **Sec. 2-456.-Police Civilian Oversight Board Legal Counsel.**
274

275 The Board may retain independent legal counsel to represent the Board in all cases, hearings,
276 controversies, or matters involving the interests of the Board. Such independent legal counsel

277 shall be chosen from a list of attorneys recommended by the City Attorney. The Board’s Chair
278 shall have authority to execute a contract in the name of the Board for legal services if the
279 contract has first been approved by the Board and endorsed by the City’s Finance Director to
280 verify that funding is available and has been appropriated to support performance of the
281 payment obligations of the Board under such contract. The Board’s legal counsel shall be paid
282 only from funds that have been appropriated to the Board’s budget by City Council. The Board
283 and the Board’s Executive Director are encouraged to consult the Office of the City Attorney for
284 legal advice concerning legal questions except in cases, hearings, investigations, controversies
285 that are before the Board, and/or any other matter in which the Board’s and the Police
286 Department’s interests may conflict.

287 **Sec. 2-457. – Receipt and Investigation of Complaints – Authority and**
288 **Complaint Intake**
289

290 **(a) Complaint Intake.** The Board and the Department shall jointly develop and administer a
291 process for receiving and investigating complaints from members of the public (“Complainants”)
292 regarding the misconduct of law enforcement officers or civilian employees of the Police
293 Department and referring complaints to the Police Department for investigation. The process,
294 to be set out in detail in a Memorandum of Understanding between the Board and the
295 Department, shall permit the Complainant to choose whether the complaint should be
296 investigated by the Board, or by the Department only.

297 **(b) Exclusions:** The Board shall not consider complaints, incidents, claims or issues
298 involving the following:

- 299 (1) Complaints involving any incident that occurred more than one year before the
300 filing of the complaint with the Board or the Police Department;
- 301 (2) Complaints not involving sworn officers or employees of the Charlottesville
302 police department. Such complaints shall be referred to the appropriate law
303 enforcement agency;
- 304 (3) Complaints not alleging conduct that would be actionable under the
305 Charlottesville Police Policies and Guidelines, Disciplinary Orders, or Code of
306 Conduct;
- 307 (4) Any other claim outside the scope of the Board's authority.

308

309 **(c) Suspension of Investigations.** If, on its face, a complaint asserts criminal conduct by a
310 police officer or civilian employee of the Police Department, or if at any point in an investigation
311 of a complaint or incident the Board or an independent investigator becomes aware of a
312 possible criminal act or offense, the Board and investigator shall:

- 313
- 314 (1) Suspend the investigation and notify the Chief of Police and Commonwealth's
315 Attorney of the alleged conduct, ensuring that no statements obtained from the
316 Police Department employee(s) whose actions are the subject of the matter are
317 shared with criminal investigators or any prosecuting authority except in
318 accordance with applicable law; and
- 319
- 320 (2) Evaluate, in consultation with Board legal counsel, the City Attorney, and the
321 Commonwealth's Attorney whether competing public interests and civil rights
322 involved permit the resumption of continued, parallel investigation by the
323 Board.
- 324

325 **(d) Investigations of New Complaints.**

- 326
- 327 (1) When the Complainant asks that the Complaint be investigated only by the
328 Police Department, the Complaint will be investigated by the Department. The
329 CPD will then, within 72 hours, provide the Executive Director with a copy of the
330 complaint information with all personally identifiable information pertaining to
331 the complainant, witnesses, and subject officers redacted. When the
332 Department's investigation is concluded, the Department will release to the
333 Board a summary of the Department's resolution of the Complaint.
- 334
- 335 (2) When the Complainant asks that the Complaint be investigated only by the
336 Board, the Complaint will be investigated according to the procedures described
337 in Section 2-459. When the Board's investigation is concluded, the
338 investigator's report will be provided to the Board and the CPD, and the Board
339 shall proceed to a hearing per Section 4-259(c).
- 340
- 341 (3) When the complainant expresses no preference as to whether the CPD or Board
342 investigates their complaint, the Board may elect to initiate an independent
343 investigation per Section 4-259(a)(1). If the Board does not elect to investigate,
344 the investigation shall be conducted by the CPD per paragraph (1) above
- 345
- 346 (4) The investigation of any Complaint, whether conducted independently by the
347 Police Department or by the Board, shall be completed and an investigation
348 report submitted within sixty (60) days from the date the complaint is filed. The
349 Board shall extend the 60-day period upon request of the Police Chief and the

350 Executive Director to protect an ongoing investigation, or for other good cause,
351 with notice to the Complainant and the City Manager.

352
353 (5) The Executive Director may oversee all investigations of Complaints of officer
354 misconduct handled by the Police and shall have access to records and
355 witnesses to the same extent as the City Police Department, subject to the
356 limitations set out elsewhere in this ordinance or in any MOU between the
357 Board and the Police Department. Such oversight may include reviewing the
358 investigative plan of the Police Department, reviewing with the Police
359 Department any records within the Department’s digital evidence management
360 system, reviewing with the Department any pertinent law enforcement records
361 within the Department’s Records Management System, observing any and all
362 real-time interviews of witnesses with the Police Department, reviewing all
363 recorded interviews in which the Executive Director chooses not to attend in
364 real time, providing feedback during the interview to be relayed to Police
365 Department staff conducting the interview, providing feedback to Police
366 Department staff in determining next steps in the investigative process,
367 reviewing facts gained from investigation with Police Department staff, and any
368 other form of oversight as may be contemplated in the MOU developed
369 pursuant to §2-452(d). For active investigations, the Executive Director shall be
370 limited in their participation to the same extent the Police Department is limited
371 in its participation in such investigations. The Executive Director may oversee
372 the Police Department’s administrative investigation of officer misconduct after
373 the close of the active investigation in the same manner as all other
374 investigations of officer conduct handled by the Police Department as described
375 in this section. When overseeing Police Department investigations, the
376 Executive Director shall not disclose confidential information.

377
378 (6) If the Board determines that there is evidence (including witnesses) that is not
379 within the control of the Police Department, the Board by two-thirds vote may
380 direct the Executive Director, on behalf of the Board, to apply to the
381 Charlottesville Circuit Court for a subpoena compelling the attendance of such
382 witness or the production of such books, papers, and other evidence, and the
383 Court, on finding that the witness or evidence is material to the discharge of the
384 Board's duties, may issue the requested subpoena.

385
386 (7) If, after making a good faith effort to oversee the investigation as described in
387 section (5) above, the Executive Director is unable to gain access to certain
388 witnesses, records, books, papers, or other evidence that they deem necessary
389 to perform their duties and the duties of the Board as provided by this
390 ordinance, the Executive Director may request the City Manager to require the

391 Police Department to produce the requested witnesses and documents. The
392 City Manager, or their designee, shall not unreasonably deny such a request,
393 but may place conditions on the production of the requested witnesses and
394 documents as necessary to preserve confidentiality for the reasons set forth in
395 this ordinance. The City Manager, or their designee, shall issue a decision on
396 the Executive Director’s request within 4 business days from the date of that
397 request.

398
399 (8) If the City Manager, or their designee, denies the Executive Director’s request
400 made pursuant to subparagraph (1) above, the Board by two-thirds vote may
401 direct the Executive Director, on behalf of the Board, to apply to the
402 Charlottesville Circuit Court for a subpoena compelling the attendance of such
403 witness or the production of such books, papers, and other evidence, and the
404 Court, on finding that the witness or evidence is material to the discharge of the
405 Board’s duties, shall cause the subpoena to be issued with such conditions as
406 the Court may deem necessary to protect the Police Department’s concerns
407 about the need for confidentiality. In seeking a subpoena, the Board shall: (i)
408 give the Police Department reasonable notice of its intent to subpoena such
409 witness or records, and shall serve the City Attorney with a copy of the
410 subpoena no later than service of such subpoena on the subject of the
411 subpoena; (ii) not unreasonably withhold its agreement to limitations requested
412 by the City Manager, or their designee. on the scope of the subpoena intended
413 to protect confidential information and other information that may adversely
414 affect pending matters related to the matters under review by the Board; (iii)
415 request that any hearing on the subpoena request be conducted in a closed
416 courtroom, to the extent permitted by state law; (iv) digitally record any
417 interviews or depositions conducted, and make copies of any records obtained
418 by subpoena, and (v) provide the Police Department with copies of any such
419 interview/deposition recordings and document records. The Board shall
420 delegate its authority to subpoena and question witnesses to the Executive
421 Director, who shall conduct any interviews, depositions, or questioning of
422 witnesses in a non-public forum that adequately protects the privacy of the
423 individual being subpoenaed, the confidentiality or sensitivity of information
424 shared or sought, and the integrity of any pending or concurrent investigation.

425 (9) In deciding whether, and under what conditions, the Court will issue any
426 subpoena, the Court shall refer to procedures and caselaw decided under Rule
427 3A:12 of the Rules of the Supreme Court of Virginia.

428 (10) The Board shall not conduct a review of or otherwise inquire into any matter
429 which is subject to an active criminal investigation.

430 **(e) Results of Police Investigation.** Upon completion of a Police Department investigation
431 into the allegation of officer misconduct, the Police Department shall make a report to the
432 Board summarizing their findings on the question of whether there was any officer misconduct
433 related to any allegation. The Executive Director shall also make a report to the Board on the
434 question of whether the Police Department’s findings were supported by the information
435 available to the Police Department, and on the question of whether the investigation done by
436 the Police Department was adequate to support those findings. If the Complainant has not
437 authorized an investigation by the Board, the report to the Board shall be only a summary, with
438 redactions as the Complainant may request.

439 1. Review Request. After receiving an investigation report, if the complainant still
440 wishes to seek review of the matter, they may file a review request with the Board. The Board
441 shall then consider the request as described in Section 4-258. Complainants must allow the
442 Board access to the Internal Affairs files and evidence if they wish to pursue a review request.

443 **(f) Results of Investigations Conducted by the Board.** Upon completion of an investigation
444 conducted by the Board, the independent investigator shall make a report to the board
445 containing a summary of the circumstances of the incident(s) of alleged misconduct, the nature
446 of the misconduct, the evidence related to whether there was any misconduct, suggested
447 findings related to each allegation, and whether potential probative information could not be
448 obtained. The Board may then proceed to hold a hearing per Section 2-459 and, if appropriate,
449 develop disciplinary recommendations as described in Section 2-460.

450 **Sec. 2- 458. – Review of Police Department Internal Investigations**

451 **(a.) Criteria for Review.** The Board may review all completed investigations, subject to the
452 limitations in paragraph (c) of this section, conducted by the Police Department alone or
453 with the oversight of the Executive Director regarding public complaints of misconduct by
454 Police Department law enforcement officers, whether received by the Police Department or
455 the Board, to ensure their thoroughness, completeness, accuracy, objectivity, impartiality;
456 and the sufficiency of any discipline resulting from such investigations. The Board may
457 consider reducing the review to only a selected number of investigations or investigations of
458 a certain nature based on criteria to be articulated by the Board and set forth in the MOU or
459 other policies of the Board.

461 **(b) Response to Review Requests.** In all instances where a complainant files a request to the
462 Board’s Executive Director seeking the Board’s review of the Department’s findings (“Review Request”),
463 that is not subject to the limitations in paragraph (c) the Board shall review the investigation which is the
464 subject of the request. A Review Request shall be deemed filed when it is received by the Executive
465 Director.

467 **(c.) Prohibitions.** The Board shall not review:

- 468 (1) Complaints involving any incident that occurred more than one year before the
469 filing of the complaint with the Board or the Police Department;
- 470 (2) A Review Request filed more than seventy-five (75) days after the date of the
471 Police Department notice sent to the complainant that informed the
472 complainant of the completion of the Department’s internal affairs investigation
473 (unless the Board determines that there is good cause to extend the filing
474 deadline);
- 475 (3) A Review Request concerning matters that are the subject of a pending criminal
476 proceeding in any trial court, a pending or anticipated civil proceeding in any
477 trial court (as evidenced by a Notice of Claim or a filed complaint), or any
478 pending City of Charlottesville grievance proceeding;
- 479 (4) Any financial management related issue; or
- 480 (5) Any complaint, incident, claim or issue where the aggrieved party requests that
481 the Board not have access to their files;
- 482 (6) Any complaint, incident, claim or issue that has previously been the subject of
483 an investigation by the Board, unless substantial new information has come to
484 the attention of the Board; and
- 485 (7) Any other claim outside the scope of the Board's authority.
486
- 487 **(d.) Extension of time limits.** The Board may review investigations beyond the time limits specified
488 in subsections (2) and (3) above if:
489
- 490 (1) the board concludes by majority vote that there is good reason for doing so, or
491 (2) as part of an audit taking place under Section 2-461(b).
492
- 493 **(e) Review Hearings.** The Police Civilian Oversight Board shall conduct a hearing on all Review
494 Requests meeting the criteria specified in paragraphs (a) and (b), above. Hearings shall be conducted in
495 accordance with procedures specified in Section 2-460 and with the Board’s Operating Procedures.
496
- 497 **(f) Findings.** The Police Civilian Oversight Board shall report its findings within thirty (30) days of
498 the hearing of the Review Request. The Board shall report publicly and to the City Manager and Police
499 Chief, that it has determined, by a preponderance of the evidence and by a majority vote of Board
500 members, one of the following findings with respect to each allegation or issue under review:
501

- 502 (1) The Police Civilian Oversight Board concurs with some or all of the findings of the Police
503 Department investigation; or
504
505 (2) The Police Civilian Oversight Board finds that the Police Department investigation’s findings
506 are not supported by the information reasonably available to the Police Department and makes
507 further recommendations to the City Manager concerning disposition of the Review Request; or
508
509 (3) The Police Civilian Oversight Board finds that the Police Department’s investigation is
510 incomplete or otherwise unsatisfactory and provides a detailed written explanation of the basis
511 for such finding.
512

513 **(g) Investigations in Support of Review Requests.** The Board may initiate an independent
514 investigation, in accordance with procedures set forth in Sec. 2-459, of any matter that was the subject
515 of a Board Review Request proceeding where the Board determined the Police Department
516 investigation was incomplete or unsatisfactory.
517

518 **Sec. 2- 459. - Independent Police Civilian Oversight Board Investigation**

519 **(a) When the Board may Initiate Investigations.** In addition to the investigations
520 authorized by Sec. 2-458, the Board may initiate investigations under any of the following
521 circumstances:

522 (1) When the Board determines that an incident, whether or not it is subject to a complaint,
523 is “serious”, as described in Section 2-452(d) or when the Board determines that such
524 an investigation is in the public interest , unless the person who would be regarded as
525 the victim of alleged police misconduct does not wish the Board to investigate the
526 matter;

527 (2) When a Police Department Internal Affairs investigation of a complaint is not completed
528 in 60 days and, after consultation with the Chief of Police, a majority of the Board
529 determines an investigation is necessary; or

530 (3) If pursuant to Sec. 2-458(d), the Board advises the City Manager that a Police
531 Department investigation is incomplete or unsatisfactory and a majority of the Board
532 determines an investigation is warranted in the public interest.

533 **(b) Procedure for Initiating Independent Investigation.** Any investigation under this section
534 shall be initiated by notice from the Board Chair to the City Manager, with concurrent notice to
535 the Chief of Police who shall ensure the Police Department's cooperation with the investigation
536 in general, and in compliance with the specific requirements of this ordinance and applicable

537 Operating Procedures. Any such investigation shall comply with existing federal, state, and local
538 laws. Board members, the Board’s Executive Director, and the Board’s legal counsel shall not
539 have any authority to compel a statement from any Charlottesville Police Department
540 employee. When an independent investigation is initiated, the Executive Director, in
541 consultation with the Board, may engage a qualified investigator independent of the Police
542 Department in accordance with the provisions of City Code Sec. 2-156. Required investigatory
543 qualifications and elements of the scope of work for independent investigations shall be as set
544 forth within the Operating Procedures.

545 **(c) Investigative Report and Hearings.** At the conclusion of the investigation, the
546 investigator shall forward the report of investigation and investigative file to the Board. The
547 Board shall hold at least one public hearing, pursuant to approved hearing procedures, on the
548 investigation. At the conclusion of the hearing(s), the Board shall make findings as to each
549 allegation, stating whether the allegation is founded, unfounded or sustained, as each such
550 finding is defined in the Operating Procedures approved by the City Council. In addition, the
551 Board may take one of the following actions:

552 (1) If the investigation was based on a complaint and the Board determines that the complaint or
553 any allegation in the complaint is unfounded or the actions justified the Board shall
554 report these findings to the Police Department along with a summary of information
555 supporting its conclusions.
556

557 (2) If the Board finds that any allegation was founded and establishes a serious breach of
558 departmental and professional standards, recommend disciplinary action be taken by
559 the Chief of Police as described in Section 2-461. If the Chief of Police declines to
560 implement the discipline recommended by the Board, the Chief shall, within 30 days of
561 notice of the Board's recommendation, set forth in writing to the City Council, City
562 Manager and the public their rationale for declining to implement the recommendation
563 of the Board;
564

565 (3) Refer the complaint to the Commonwealth's Attorney for the City of Charlottesville if it
566 determines that the investigation suggests that a criminal offense was or may have been
567 committed and is not already the subject of criminal investigation.

568 **Sec. 2-460 - Hearing Procedures**

569 **(a) Compliance with Operating Procedures.** The Board shall conduct hearings in
570 accordance with the procedures set forth in a separate document, approved by City Council,
571 entitled “Police Civilian Oversight Board Operating Procedures.” Those procedures may be
572 modified from time to time by City Council, in consultation with the Board, and parties to the
573 hearing shall have no right to a particular set of procedures. The hearing shall be conducted by

574 a Hearing Examiner, who may make reasonable amendments to the procedures as
575 circumstances concerning a particular Complaint may require, provided that (i) any such
576 modifications are within the authority of the Board under City policy or ordinance; and (ii) no
577 such modification shall operate to deprive any party to a hearing of substantial justice.

578 (b) Informal Resolution. At any time after receiving a Complaint and before issuance of the
579 written findings required at the conclusion of a hearing, the Board and any party may propose
580 an informal resolution of the Complaint which may be adopted if all parties and the Board agree
581 to such a resolution.

582 **Sec. 2-461. - Disciplinary Recommendations**

583

584 (a) **Closed sessions.** If the City Attorney certifies to the Board that the Virginia General
585 Assembly authorizes Police Civilian Oversight Boards to receive information in confidence to
586 make an informed personnel discipline recommendation, including accessing confidential
587 personnel files, without thereby making those files public records, and that Police Civilian
588 Oversight Boards may deliberate in closed session in making a discipline recommendation, the
589 following procedures may be used, as appropriate:

590 (b) **Disciplinary deliberations.** Upon making a finding that an officer or civilian employee
591 has engaged in a serious breach of departmental and professional standards, the Board shall
592 meet to discuss appropriate recommendations for disciplinary action. The Board shall consult
593 with the officer's direct supervisor or commander. Disciplinary action to be considered for
594 recommendation by the Board shall include those specified within any applicable disciplinary
595 matrix utilized by the Police Department. The Board may also consult complainants and
596 witnesses when discussing the appropriate disciplinary action to be imposed. Prior to
597 commencement of any such disciplinary deliberations, the subject officer or employee shall be
598 given notice of the proceedings and of the range of disciplinary actions under consideration, and
599 the officer or employee shall be offered an opportunity to be heard. The officer may be
600 represented by legal counsel during any discussions or deliberations of the Board. No officer or
601 Police Department employee, and no other City employee, shall be compelled to provide
602 statements to the Board during its deliberations.

603 (c). **Recommendations as to discipline.** If a disciplinary recommendation is made, and the
604 Police Department declines to implement the disciplinary recommendations of the Board, the
605 Chief of Police shall, within thirty (30) days of the Board's recommendation, create a written
606 record, which shall be made available to the Board, the City Council, the City Manager, and the
607 public, of their rationale for declining to implement the recommendation of the Board.

608 **(d) Access to grievance procedure.** Nothing in this section will either restrict or expand in
609 any way the right of any law enforcement officer or other Police Department employee against
610 whom disciplinary action is imposed by the Chief of Police on recommendation of the Board to
611 file a grievance requesting a hearing before the City’s Personnel Appeals Board, provided that
612 the matter is a qualifying grievance under the City’s grievance procedures.

613 **Sec. 2- 462. - Board Review of Law Enforcement Policies, Practices and**
614 **Procedures**
615

616 **(a) Authority to make Recommendations.** The Board is authorized to review and make
617 recommendations regarding policies, practices, and procedures of the Charlottesville Police
618 Department, including, without limitation, written policies, procedures and standing orders.
619 The Board shall present in writing its findings and recommendations with supporting rationale
620 to City Council, the City Manager and Chief of Police within 30 days of the date of Board
621 approval of the recommendations. If the Police Department declines to implement any changes
622 recommended by the Board, the Chief of Police shall create a written record, which shall be
623 made available for public inspection, of its rationale for declining to implement the Board’s
624 recommendation, unless the Board instead withdraws the recommendation based on the
625 rationale provided. The Board’s withdrawal of any such recommendation shall be made
626 available for public inspection.

627 **(b) Retrospective audits.** The Board may require its Executive Director to conduct
628 retrospective examination and audits of patterns in the Internal Affairs investigations, arrest and
629 detention, and other public-police interactions. The scope of such examinations, and the
630 manner in which the examinations may be conducted, shall be set forth within the Operating
631 Procedures.

632 **(c) Policy recommendations.** The Board may recommend policies or procedures to City
633 Council, the City Manager and the Police Chief concerning police practices, policies and
634 procedures. The Board’s recommendations shall be included in any public reports issued by the
635 Board. If the Police Department declines to implement any changes recommended by the
636 Board, the Chief of Police shall, within thirty (30) days of the Board’s recommendation, create a
637 written record, which shall be made available to the City Council, the City Manager, and the
638 public, of its rationale for declining to implement the recommendation of the Board.

639 **Sec. 2- 463. - Request Annual Reports of Police Expenditures**
640

641 Not more than once per year, during the City Manager’s preparation of a proposed budget for
642 the City, the Budget Office shall provide the Board with annual expenditure estimates and
643 future year projections for the Police Department, itemized to the same level of detail as
644 provided to the City Manager. The estimates shall be presented to the Board at the same time
645 they are presented to the City Manager. The Board will review the estimates and is authorized
646 to make budgetary recommendations to the City Manager and/or to the City Council during the
647 annual budget process.

648 **Sec. 2-464. - Police Civilian Oversight Board Recommendations and Annual**
649 **Report.**

650
651 **(a) Legislative recommendations.** The Board may make recommendations to City Council
652 of any proposed changes in state law, for the Council’s consideration to include in its annual
653 legislative program to present to the General Assembly. These recommendations shall be
654 presented to the City Attorney’s Office by August 15 of each year.

655 **(b) Annual Report.** On or before April 15 of each calendar year, the Board shall provide the
656 City Council with an annual report of activities conducted during the preceding calendar year.
657 The report shall detail the Board’s calendar year activities with sections related to the
658 appointment of committees and their actions; the establishment of any community advisory
659 panels; an overview of complaints received during the calendar year including the number of
660 complaints, the complaints’ findings, and the number of complaints deferred due to pending
661 proceedings; the number and outcome of any independent investigations; an overview of
662 proposed policy recommendations and amendments to Charlottesville Police Department
663 policies and whether the recommendations and amendments were implemented by the
664 Charlottesville Police Department; the number, type, and attendance at community listening
665 sessions; recommendations of the Board about policing within the City; and any other
666 information that the Board deems necessary to provide a complete overview of the Board’s
667 activities.

668 **Section 2-465. - Community Engagement and Community Relations**

669 **(a) Listening sessions.** The Board, supported by the Executive Director, shall engage in
670 community outreach and to enlist the assistance and input of community members. At least
671 semi-annually, the Board shall host public community listening sessions to discuss policing
672 matters of pressing public concern, including the impacts of local policing on historically
673 disadvantaged communities that currently experience or traditionally experienced disparate
674 policing.

675 **(b) Joint meetings.** The Board may also host or participate in public police-community
676 relations meetings, in which Board members, supported by the Executive Director, mediate
677 discussions between CPD officials, designated by the Chief of Police, and community members
678 about policing matters of pressing public concern, including questions about transparency,
679 availability, legitimacy, mutual respect and trust, equitable treatment, social and racial justice,
680 equal rights, and community safety and order.

681 **(c) Report of community outreach activities.** The Board shall report on its community
682 outreach and engagement activities, public input, and any recommendations for community-
683 policing initiatives or for improved police-community relations at least annually as part of the
684 annual report provided for in Section 2-464.

685 **Section 2-466. - Training**

686 **(a) New Board member training.** At least once every two years, and within 90 days of
687 Board appointments, the City, assisted by the Executive Director, shall provide new Board
688 members with training of at least eight hours, presented by the National Association for Civilian
689 Oversight of Law Enforcement or a comparable professional organization. The training shall be
690 consistent with the Board’s mission, this enabling ordinance, and the Operating Procedures.

691 **(b) Recurring training.** At least once every two years, and within six months of new Board
692 appointments, the City, assisted by the Executive Director, the Chief of Police or their designees,
693 and such other city personnel as may be appropriate, shall provide new Board members with
694 training or information:

695 (1) describing the legal and ethical obligations of members of a public board,
696 including the need to comply with FOIA and other statutes and ordinances
697 governing their service;

698 (2) explaining Police Department procedures, policies, and regulations;

699 (3) describing the substance of Police Department personnel record-keeping;

700 (4) describing such other City policies, procedures and systems material to the
701 duties of the Board; and

702 (5) the Code of Ethics for the Board.

703 (c) **Ride-alongs.** Within six months of appointment, and at least once a year thereafter,
704 members shall participate in a ride-along session with the Charlottesville Police Department.

705 (d) **Additional Training.** As needed, the City shall provide Board members with additional
706 relevant training by subject matter experts on subjects that may include mental health, trauma-
707 informed policing, civil rights and constitutional law, race and racism, community outreach,
708 mediation, investigation, and policing practices.

709 **Section 2-467. – Commendations for Exceptional Community Service**

710 The Board shall establish procedures for soliciting comments from the public concerning
711 incidents of exceptional performance by employees of the Charlottesville Police Department.
712 The Board may consult with the Chief of Police regarding individual employees who have made
713 outstanding contributions exemplary of equitable, just, and professional policing. The Board
714 may issue public citations recognizing individuals deemed to have made such contributions.

715 **Section 2-468. – Mediation**

716 The Board may propose procedures for the use of mediation or other alternative dispute
717 resolution techniques to resolve complaints against employees of the Charlottesville Police
718 Department. Such procedures shall not affect the ability of complainants to pursue remedies
719 under other sections of this ordinance.