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;
timely, fair and objective review of investigations by the Police Department of incidents involving the Charlottesville Police Department;

(3) timely, fair and objective investigations of serious incidents of police misconduct;

(4) meaningful assessments and corrective recommendations intended to maintain and promote non-discriminatory policing;

(5) recommendations for actions and reforms to ensure the protection of all communities, including recommendations for strategies to implement the identified reforms.

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

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

(1) To receive, investigate, and issue findings on complaints from civilians regarding the conduct of law enforcement officers and civilian employees of the Charlottesville Police Department;

(2) To investigate and issue findings on incidents, including the use of force by a law enforcement officer, death or serious injury to any individual held in custody, serious abuse of authority or misconduct as defined in this section, allegedly discriminatory stops, and other incidents regarding the conduct of law enforcement officers and civilian employees of the Charlottesville Police Department;

(3) At the conclusion of any investigation conducted pursuant to paragraphs (1) and (2), above, and consistent with the Board’s findings in the investigation, to recommend to the Chief of Police disciplinary action in cases that involve serious breaches of departmental and professional standards, as defined within Board Operating Procedures adopted pursuant to Sec. 2-459;

(4) To investigate policies, practices, and procedures of the Police Department and to make recommendations regarding changes to such policies, practices and procedures, as set forth within Sec. 2-461 of this article;

(5) To review investigations conducted internally by the Police Department, as set forth in Sec. 2-458 of this article, including internal investigations of civilians employed by the Police Department, and to issue findings regarding the accuracy, completeness, and impartiality of the investigations and the sufficiency of any discipline resulting from such investigations;

(6) To request reports of the annual expenditures of the Police Department, and to make budgetary recommendations to the City Council concerning future appropriations;

(7) To make public reports on the activities of the Police Civilian Oversight Board, including investigations, hearings, findings, recommendations, determinations and oversight activities;

(8) To hold hearings and, if, after making a good faith effort to obtain voluntarily the attendance of witnesses and the production of books, papers, and other evidence necessary to perform its duties, the Board is unable to obtain such attendance or
production, to apply to the Circuit Court for the City of Charlottesville for a subpoena compelling the attendance of such witness or the production of such books, papers and other evidence, and the court may, upon good cause shown, cause the subpoena to be issued. Any person so subpoenaed may apply to the Charlottesville Circuit Court to quash it; and

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

**Definition of “serious abuse of authority or misconduct.”** “Serious abuse of authority or misconduct” shall include the following:

1. Verbal or other conduct regarding an individual or group that maligns or shows hostility for the individual or group because of race, color, religion, gender, national origin, age, disability, sexual orientation, or gender identity and expression;
2. Harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability;
3. Acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense;
4. Reckless endangerment of a citizen, detainee, or person in custody;
5. Violation of laws or ordinances;
6. Criminal or other misconduct occurring on or off the job which is related to job performance or is of such a nature that to continue the employee in the assigned position or in any City employment capacity would constitute negligence in regard to the City’s duties to the public or to other City employees;
7. In any matter within the jurisdiction of any officer, department or agency of the City: (a) the knowing falsification, concealment or cover-up of a material fact, and/or (b) the knowing making of any false, fictitious or fraudulent statement or representation, and/or the making or using of any writing or document knowing the same to contain a false, fictitious or fraudulent statement or entry;
8. Sexual conduct, even consensual conduct, on the job; and
9. Other serious violations of Charlottesville or CPD policies or procedures, including the CPD Code of Conduct.

**Access to Police Department Information.** The Board is authorized to receive and shall be provided full access to all Police Department reports, files and records related to Board investigations of complaints and incidents, or its review of Police Department internal affairs investigations, as authorized in this ordinance. All records, documents and materials in the possession of the Police Department or the City that are determined by the Board to be necessary and requested by the Board to carry out its authorized powers and responsibilities shall be provided to the Board subject to Board procedures adopted, with Council approval, for the protection of confidential information as defined in such procedures. Within 45 days of the enactment of this Article, the Board and the Police Department shall prepare and execute a Memorandum of Understanding (“MOU”) setting forth how this access shall be given, and under what circumstances it might be made available to the parties.
Confidential Information. Records containing confidential information such as information protected by law, personally identifiable information, information that may reveal the identity of a confidential source, information that could endanger the life or physical safety of any individual, information that would disclose techniques, procedures, or guidelines used in criminal investigations or prosecutions that if revealed may reasonably be expected to risk the circumvention of the law, or information eligible for exemption from the mandatory disclosure requirements under the Virginia Freedom of Information Act, may be reviewed only in a properly convened closed session of the Board to maintain the confidentiality of the information.

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

- investigative files for an active criminal investigation;
- files related to an active investigation by the Commonwealth Attorney, the Virginia Attorney General, or the United States Department of Justice;
- files related to an active EEOC claim involving a City Police Department officer or employee;
- files related to an active Human Rights investigation involving a Police Department officer or employee.

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

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

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

Board composition. The Board shall reflect the demographic diversity of the City of Charlottesville. The Board shall be composed of seven voting members and one non-voting member.
appointed by the City Council. The members shall be removable by the City Council for cause as
specified in the Board Code of Conduct or other good cause.

(1) The Board shall include at least three members who come from historically
disadvantaged communities that have traditionally experienced disparate policing or
who are residents of public housing.

(2) The Board may include at least one other member who represents an organization that
seeks racial or social justice on behalf of historically disadvantaged communities.

(3) The non-voting member of the Board shall be an individual with policing expertise or
experience. The non-voting member may be a retired law enforcement officer who prior
to his or her retirement was employed in a locality similar to the City of Charlottesville.

(4) The seven voting members of the Board shall be residents of the City of Charlottesville,
except that the member who represents an organization that seeks racial or social
justice on behalf of historically disadvantaged communities shall either be a resident of
the City of Charlottesville or the organization they represent shall perform advocacy on
behalf of City of Charlottesville residents.

(5) The non-voting member of the Board need not be a resident of the City of
Charlottesville.

(6) No Board member shall be a current candidate for public office, a former member of the
Charlottesville Police Department, an immediate family member of a current
Charlottesville Police Department employee, or a current employee of a law
enforcement agency, including but not limited to a current employee of the
Charlottesville Police Department, Fire Department, Emergency Communications
Center, or Sheriff’s Office. In appointing a Board member who is employed by the City
of Charlottesville, Council will avoid potential conflicts of interest.

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

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

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

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

(1) Materials from Police internal investigative files mentioned in Section 2-452(g);
disciplinary actions, memos and reports that the member receives during service on the
Board;

statements of a police officer or civilian employee, who was required by the
Police Department to give a statement;

criminal investigative files;

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

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

**Sec. 2-454. – Meetings.**

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

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

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

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

1. the date, time, and location of each meeting;
2. the members present and absent;
3. a summary of the discussion on matters proposed, deliberated, or decided; and
4. a record of any votes taken.
(e) Rules of Order. All meetings of the Board shall be conducted in accordance with Robert's Rules of Order or such other procedures as the Board may adopt. Hearings of the Board shall be conducted in accordance with the Police Civilian Oversight Board Operating Procedures.

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

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

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

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

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

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

Sec. 2-456.-Police Civilian Oversight Board Legal Counsel.

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

Sec. 2-457. – Receipt and Investigation of Complaints – Authority and Complaint Intake

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

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

(1) Complaints involving any incident that occurred more than one year before the filing of the complaint with the Board or the Police Department;

(2) Complaints not involving sworn officers or employees of the Charlottesville police department. Such complaints shall be referred to the appropriate law enforcement agency;

(3) Complaints not alleging conduct that would be actionable under the Charlottesville Police Policies and Guidelines, Disciplinary Orders, or Code of Conduct;

(4) Any other claim outside the scope of the Board’s authority.
(c) **Suspension of Investigations.** If, on its face, a complaint asserts criminal conduct by a police officer or civilian employee of the Police Department, or if at any point in an investigation of a complaint or incident the Board or an independent investigator becomes aware of a possible criminal act or offense, the Board and investigator shall:

1. Suspend the investigation and notify the Chief of Police and Commonwealth’s Attorney of the alleged conduct, ensuring that no statements obtained from the Police Department employee(s) whose actions are the subject of the matter are shared with criminal investigators or any prosecuting authority except in accordance with applicable law; and

2. Evaluate, in consultation with Board legal counsel, the City Attorney, and the Commonwealth’s Attorney whether competing public interests and civil rights involved permit the resumption of continued, parallel investigation by the Board.

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

1. When the Complainant asks that the Complaint be investigated only by the Police Department, the Complaint will be investigated by the Department. The CPD will then, within 72 hours, provide the Executive Director with a copy of the complaint information with all personally identifiable information pertaining to the complainant, witnesses, and subject officers redacted. When the Department’s investigation is concluded, the Department will release to the Board a summary of the Department’s resolution of the Complaint.

2. When the Complainant asks that the Complaint be investigated only by the Board, the Complaint will be investigated according to the procedures described in Section 2-459. When the Board’s investigation is concluded, the investigator’s report will be provided to the Board and the CPD, and the Board shall proceed to a hearing per Section 4-259(c).

3. When the complainant expresses no preference as to whether the CPD or Board investigates their complaint, the Board may elect to initiate an independent investigation per Section 4-259(a)(1). If the Board does not elect to investigate, the investigation shall be conducted by the CPD per paragraph (1) above.

4. The investigation of any Complaint, whether conducted independently by the Police Department or by the Board, shall be completed and an investigation report submitted within sixty (60) days from the date the complaint is filed. The Board shall extend the 60-day period upon request of the Police Chief and the
Executive Director to protect an ongoing investigation, or for other good cause, with notice to the Complainant and the City Manager.

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

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

(7) If, after making a good faith effort to oversee the investigation as described in section (5) above, the Executive Director is unable to gain access to certain witnesses, records, books, papers, or other evidence that they deem necessary to perform their duties and the duties of the Board as provided by this ordinance, the Executive Director may request the City Manager to require the
Police Department to produce the requested witnesses and documents. The City Manager, or their designee, shall not unreasonably deny such a request, but may place conditions on the production of the requested witnesses and documents as necessary to preserve confidentiality for the reasons set forth in this ordinance. The City Manager, or their designee, shall issue a decision on the Executive Director’s request within 4 business days from the date of that request.

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

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

(10) The Board shall not conduct a review of or otherwise inquire into any matter which is subject to an active criminal investigation.
(e) **Results of Police Investigation.** Upon completion of a Police Department investigation into the allegation of officer misconduct, the Police Department shall make a report to the Board summarizing their findings on the question of whether there was any officer misconduct related to any allegation. The Executive Director shall also make a report to the Board on the question of whether the Police Department’s findings were supported by the information available to the Police Department, and on the question of whether the investigation done by the Police Department was adequate to support those findings. If the Complainant has not authorized an investigation by the Board, the report to the Board shall be only a summary, with redactions as the Complainant may request.

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

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

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

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

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

(c.) **Prohibitions.** The Board shall not review:
Complaints involving any incident that occurred more than one year before the filing of the complaint with the Board or the Police Department;

A Review Request filed more than seventy-five (75) days after the date of the Police Department notice sent to the complainant that informed the complainant of the completion of the Department’s internal affairs investigation (unless the Board determines that there is good cause to extend the filing deadline);

A Review Request concerning matters that are the subject of a pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or a filed complaint), or any pending City of Charlottesville grievance proceeding;

Any financial management related issue; or

Any complaint, incident, claim or issue where the aggrieved party requests that the Board not have access to their files;

Any complaint, incident, claim or issue that has previously been the subject of an investigation by the Board, unless substantial new information has come to the attention of the Board; and

Any other claim outside the scope of the Board’s authority.

Extension of time limits. The Board may review investigations beyond the time limits specified in subsections (2) and (3) above if:

(1) the board concludes by majority vote that there is good reason for doing so, or

(2) as part of an audit taking place under Section 2-461(b).

Review Hearings. The Police Civilian Oversight Board shall conduct a hearing on all Review Requests meeting the criteria specified in paragraphs (a) and (b), above. Hearings shall be conducted in accordance with procedures specified in Section 2-460 and with the Board’s Operating Procedures.

Findings. The Police Civilian Oversight Board shall report its findings within thirty (30) days of the hearing of the Review Request. The Board shall report publicly and to the City Manager and Police Chief, that it has determined, by a preponderance of the evidence and by a majority vote of Board members, one of the following findings with respect to each allegation or issue under review:
(1) The Police Civilian Oversight Board concurs with some or all of the findings of the Police Department investigation; or

(2) The Police Civilian Oversight Board finds that the Police Department investigation’s findings are not supported by the information reasonably available to the Police Department and makes further recommendations to the City Manager concerning disposition of the Review Request; or

(3) The Police Civilian Oversight Board finds that the Police Department’s investigation is incomplete or otherwise unsatisfactory and provides a detailed written explanation of the basis for such finding.

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

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

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

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

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

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

(b) Procedure for Initiating Independent Investigation. Any investigation under this section shall be initiated by notice from the Board Chair to the City Manager, with concurrent notice to the Chief of Police who shall ensure the Police Department’s cooperation with the investigation in general, and in compliance with the specific requirements of this ordinance and applicable
Operating Procedures. Any such investigation shall comply with existing federal, state, and local laws. Board members, the Board’s Executive Director, and the Board’s legal counsel shall not have any authority to compel a statement from any Charlottesville Police Department employee. When an independent investigation is initiated, the Executive Director, in consultation with the Board, may engage a qualified investigator independent of the Police Department in accordance with the provisions of City Code Sec. 2-156. Required investigatory qualifications and elements of the scope of work for independent investigations shall be as set forth within the Operating Procedures.

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

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

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

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

Sec. 2-460 - Hearing Procedures

(a) Compliance with Operating Procedures. The Board shall conduct hearings in accordance with the procedures set forth in a separate document, approved by City Council, entitled “Police Civilian Oversight Board Operating Procedures.” Those procedures may be modified from time to time by City Council, in consultation with the Board, and parties to the hearing shall have no right to a particular set of procedures. The hearing shall be conducted by
a Hearing Examiner, who may make reasonable amendments to the procedures as
circumstances concerning a particular Complaint may require, provided that (i) any such
modifications are within the authority of the Board under City policy or ordinance; and (ii) no
such modification shall operate to deprive any party to a hearing of substantial justice.

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

Sec. 2-461. - Disciplinary Recommendations

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

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

(c) Recommendations as to discipline. If a disciplinary recommendation is made, and the
Police Department declines to implement the disciplinary recommendations of the Board, the
Chief of Police shall, within thirty (30) days of the Board’s recommendation, create a written
record, which shall be made available to the Board, the City Council, the City Manager, and the
public, of their rationale for declining to implement the recommendation of the Board.
(d) **Access to grievance procedure.** Nothing in this section will either restrict or expand in any way the right of any law enforcement officer or other Police Department employee against whom disciplinary action is imposed by the Chief of Police on recommendation of the Board to file a grievance requesting a hearing before the City’s Personnel Appeals Board, provided that the matter is a qualifying grievance under the City’s grievance procedures.

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

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

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

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

**Sec. 2-463. - Request Annual Reports of Police Expenditures**
Not more than once per year, during the City Manager’s preparation of a proposed budget for the City, the Budget Office shall provide the Board with annual expenditure estimates and future year projections for the Police Department, itemized to the same level of detail as provided to the City Manager. The estimates shall be presented to the Board at the same time they are presented to the City Manager. The Board will review the estimates and is authorized to make budgetary recommendations to the City Manager and/or to the City Council during the annual budget process.

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

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

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

Section 2-465. - Community Engagement and Community Relations

(a) Listening sessions. The Board, supported by the Executive Director, shall engage in community outreach and to enlist the assistance and input of community members. At least semi-annually, the Board shall host public community listening sessions to discuss policing matters of pressing public concern, including the impacts of local policing on historically disadvantaged communities that currently experience or traditionally experienced disparate policing.
(b) Joint meetings. The Board may also host or participate in public police-community relations meetings, in which Board members, supported by the Executive Director, mediate discussions between CPD officials, designated by the Chief of Police, and community members about policing matters of pressing public concern, including questions about transparency, availability, legitimacy, mutual respect and trust, equitable treatment, social and racial justice, equal rights, and community safety and order.

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

Section 2-466. - Training

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

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

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

2. explaining Police Department procedures, policies, and regulations;

3. describing the substance of Police Department personnel record-keeping;

4. describing such other City policies, procedures and systems material to the duties of the Board; and

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

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

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

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

**Section 2-468. – Mediation**

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