

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, which shall be referred to as “the 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;

- 40 (2) timely, fair and objective review of investigations by the involving the Department;
- 41
- 42 (3) timely, fair and objective investigations of serious incidents of police misconduct;
- 43
- 44 (4) meaningful assessments and corrective recommendations intended to maintain and
- 45 promote non-discriminatory policing; and
- 46
- 47 (5) recommendations for actions and reforms to ensure the protection of all communities,
- 48 including recommendations for strategies to implement the identified reforms.
- 49

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

53

54 (c) **Powers and Duties.** The Board shall have the following powers and duties:

- 55
- 56 (1) To receive, investigate, and issue findings on complaints from civilians regarding the
- 57 conduct of law enforcement officers and civilian employees of the Department;
- 58
- 59 (2) To investigate and issue findings on incidents, including the use of force by a law
- 60 enforcement officer, death or serious injury to any individual held in custody, serious
- 61 abuse of authority or misconduct as defined in this section, allegedly discriminatory
- 62 stops, and other incidents regarding the conduct of law enforcement officers and civilian
- 63 employees of the Department;
- 64
- 65 (3) At the conclusion of any investigation conducted pursuant to paragraphs (1) and (2),
- 66 above, and consistent with the Board’s findings in the investigation, to recommend to
- 67 the Chief of Police disciplinary action in cases that involve serious breaches of
- 68 departmental and professional standards, as defined within Board Operating Procedures
- 69 adopted pursuant to Sec. 2-460;
- 70
- 71 (4) To investigate policies, practices, and procedures of the Department and to make
- 72 recommendations regarding changes to such policies, practices and procedures, as set
- 73 forth within Sec. 2-462 of this article;
- 74
- 75 (5) To review investigations conducted internally by the Department, as set forth in Sec. 2-
- 76 458 of this article, and to issue findings regarding the accuracy, completeness, and
- 77 impartiality of the investigations and the sufficiency of any discipline resulting from such
- 78 investigations;
- 79

- 80 (6) To request reports of the annual expenditures of the Department, and to make
81 recommendations to the City Council concerning future appropriations;
82
- 83 (7) To make public reports on the activities of the Board, including investigations, hearings,
84 findings, recommendations, determinations and oversight activities;
85
- 86 (8) To hold hearings and, if, after making a good faith effort to obtain the voluntary
87 attendance of witnesses and the production of books, papers, and other evidence
88 necessary to perform its duties, the Board is unable to obtain such attendance or
89 production, to apply to the Circuit Court for the City of Charlottesville for a subpoena
90 compelling the attendance of such witness or the production of such books, papers and
91 other evidence; and
92
- 93 (9) To undertake other duties, as reasonably necessary, for the Board to effectuate its
94 lawful purpose as provided for in this article, to effectively oversee the Department.
95

96 (d) **Definition of “serious abuse of authority or misconduct.”** “Serious abuse of authority or
97 misconduct” shall include the following:
98

- 99 (1) Verbal or other conduct regarding an individual or group that maligns or shows hostility
100 for the individual or group because of race, color, religion, gender, national origin, age,
101 disability, sexual orientation, or gender identity and expression;
102
- 103 (2) Harassment or discrimination based on race, color, sexual orientation, gender, religion,
104 national origin, marital status, age, familial status, immigration status or disability;
105
- 106 (3) Acting in a rude, careless, angry, retaliatory or threatening manner not necessary for
107 self-defense;
108
- 109 (4) Reckless endangerment of a citizen, detainee, or person in custody;
110
- 111 (5) Violation of laws or ordinances;
112
- 113 (6) Criminal or other misconduct occurring on or off the job which is related to job
114 performance or is of such a nature that to continue the employee in the assigned
115 position or in any City employment capacity would constitute negligence in regard to the
116 City’s duties to the public or to other City employees;
117
- 118 (7) In any matter within the jurisdiction of any officer, department or agency of the City: (a)
119 the knowing falsification, concealment or cover-up of a material fact, and/or (b) the
120 knowing making of any false, fictitious or fraudulent statement or representation,

121 and/or the making or using of any writing or document knowing the same to contain a
122 false, fictitious or fraudulent statement or entry;

123
124 (8) Sexual conduct, including consensual sexual conduct, on the job; and

125
126 (9) Other serious violations of Charlottesville or Department policies or procedures,
127 including the Department Code of Conduct.

128
129 (e) **Access to Department Information.** The Board is authorized to receive, and shall be provided full
130 access to, all Department reports, files and records pertinent to Board investigations of complaints and
131 incidents or to its review of Department Internal Affairs investigations, as authorized in this ordinance.
132 All records, documents and materials in the possession of the Department or the City that are
133 determined by the Board to be necessary and requested by the Board to carry out its authorized powers
134 and responsibilities shall be provided to the Board subject to Board procedures adopted, with Council
135 approval, for the protection of confidential information as defined in such procedures.

136
137 (f) **Department information to which the Board may not have access.** The Executive Director and the
138 Board shall not have access to

139
140 (1) juvenile records;

141
142 (2) records that may reveal the identity or personally identifiable information of a
143 confidential informant;

144
145 (3) investigative files for an active civil or criminal investigation by the Commonwealth
146 Attorney, the Virginia Attorney General, or the United States Department of Justice;

147
148 (4) files related to an active EEOC claim, Human Rights investigation, or civil claim involving
149 a Department employee;

150
151 (5) any information that the Police Department is not legally authorized to share.

152
153 (g) **Disputes over access.** If the Executive Director and the Board seek access to information the
154 disclosure of which the Department believes would compromise ongoing investigations, disclosure may
155 be withheld until such time as the need for maintaining confidentiality is no longer present, or until the
156 City Manager has determined that the matter will not be compromised by the release of the
157 information. If the Board believes that the City Manager is unreasonably withholding such information,
158 the Board may consider whether to seek a subpoena requiring the production of such information
159 pursuant to §2-458(f).

160

161 (h) **Procedures must be adopted before the Board begins to operate.** The Board shall not exercise the
162 powers and duties set forth within paragraphs (c)(1)-(9) until City Council approves Operating
163 Procedures, after consultation with the Board, pursuant to § 2-460 of this Article.
164

165 **Sec. 2-453 - Board Membership Appointment, and Terms.**
166

167 (a) **Appointment Process.** The City Council shall appoint the members of the Board. The Council shall
168 announce a public application process with applications available online and by hardcopy in English and
169 Spanish for individuals interested in serving on the Board. Council will seek to appoint fair-minded and
170 objective members with a demonstrated commitment to community service who have training and
171 experience with topics relevant to the business of the Board, including law, police practices, human
172 resources practices and procedures, trauma-informed mental health issues, and the sociology of
173 historically over-policed communities.
174

175 (b) **Board composition.** The Board shall reflect the demographic diversity of the City of Charlottesville.
176 The Board shall be composed of seven voting members and one non-voting member appointed by the
177 City Council. The members shall be removable by the City Council for cause as specified in the Board
178 Code of Ethics, violating the duty of confidentiality, failing to participate in required training, or other
179 good cause.
180

181 (1) Council shall appoint at least three members who are residents of public housing or who
182 come from historically disadvantaged communities that have traditionally experienced
183 disparate policing.
184

185 (2) Council may appoint one member who represents an organization that seeks racial or
186 social justice on behalf of historically disadvantaged communities.
187

188 (3) The non-voting member of the Board shall be an individual with policing expertise or
189 experience. The non-voting member may be a retired law enforcement officer who prior
190 to his or her retirement was employed in a locality similar to the City of Charlottesville.
191

192 (4) The seven voting members of the Board shall be residents of the City of Charlottesville,
193 except that if Council has appointed someone who represents an organization that seeks
194 racial or social justice on behalf of historically disadvantaged communities, that person
195 shall either be a resident of the City of Charlottesville or the organization they represent
196 shall perform advocacy on behalf of City of Charlottesville residents.
197

198 (5) The non-voting member of the Board with prior law enforcement experience need not
199 be a resident of the City of Charlottesville.
200

201 (6) No Board member shall be a current candidate for public office, a former member of the
202 Department, an immediate family member of a current Department employee, or a
203 current employee of a law enforcement agency, the Fire Department, the Emergency
204 Communications Center, or the Sheriff’s Office. In appointing a Board member who is
205 employed by the City of Charlottesville, Council will seek to avoid potential conflicts of
206 interest.

207
208 (c) **Terms.** Each Board member shall be appointed for a term of three years. As the Board is being
209 constituted, Council may extend the initial term for a particular Board member for an additional period
210 of time to provide for staggering the re-appointment dates.

211
212 (d) **Vacancies.** If a Board member’s service ends before the conclusion of that member’s term or any
213 extended term, the City Council shall appoint an individual to complete the remainder of the term.

214
215 (e) **Conflicts of Interest.** No Board member may participate in the consideration of a Complaint of
216 someone who is a family member, or someone with whom the Board member has a financial interest.
217 No Board member shall participate under circumstances in which the objectivity of the Board member
218 could reasonably be questioned.

219
220 (f) **Confidentiality.** Except as included in the Board reports, each member shall maintain the
221 confidentiality of all confidential or privileged information, including but not limited to:

222 (1) Materials from Police internal investigative files;

223 (2) Disciplinary actions, memos and reports;

224 (3) Statements of any police officer or civilian employee who was required by the
225 Department to give a statement;

226 (4) Criminal investigative files; or

227 (5) Any other information that the Board has deemed confidential.

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

230 **Sec. 2-454 – Meetings.**

231
232 (a) **Number of meetings.** The Board shall hold public meetings at least once per calendar
233 quarter. Additional meetings may be called by the Chair or any two Board members.

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

238
239 (c) **Quorum.** The Board may take any action by motion or resolution upon an affirmative
240 majority vote provided a quorum of at least five (5) out of seven (7) voting members is present.

241
242 (d) **Minutes.** The Board shall keep minutes of its meetings, which shall include:

- 243
244 (1) the date, time, and location of the meeting;
245
246 (2) the members present and absent;
247
248 (3) a summary of the discussion on matters proposed, deliberated, or decided; and
249
250 (4) a record of any votes taken.

251 (e) **Rules and Procedures.** Meetings of the Board shall be conducted in accordance with
252 Robert's Rules of Order or such other procedures as the Board may adopt. Hearings of the
253 Board shall be conducted in accordance with the Board Operating Procedures.

254 **Sec. 2-455 - Executive Director**

255 (a) **Appointment.** The City Manager shall appoint an Executive Director with the approval of a
256 majority vote of the City Council.

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

261 (c) **Duties.** The Executive Director shall support the Board in the implementation and exercise
262 of all of its functions authorized under this ordinance and to undertake or ensure the
263 performance of specific oversight tasks assigned by the Board, including the oversight of
264 investigations conducted by the Department. If authorized by the City Manager or their
265 designee, the Executive Director may engage the services of such investigators as may be
266 necessary to perform the Executive Director's duties to conduct or to oversee investigations.

267 (d) **Supervision.** The City Manager shall supervise the work of the Executive Director, and may
268 delegate that responsibility to a Deputy City Manager. The City Manager’s annual evaluation of
269 the Executive Director’s performance shall consider a written performance review submitted by
270 the Board to the City Manager. The Board may request that the City Manager meet with the
271 Board’s Chair to discuss the Executive Director’s performance.

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

275 **Sec. 2-456 - Board Legal Counsel.**

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

287 **Sec. 2-457 – Matters that the Board May Investigate.**

288 (a) **Investigate Complaints.** The Board and the Department shall jointly develop and administer
289 a process for receiving and investigating complaints from members of the public
290 (“Complainants”) regarding the misconduct of law enforcement employees of the Department
291 and referring complaints to the Department for investigation. Complaints should be able to be
292 received online, in writing, or orally. The Complainant should be able to choose whether the
293 Complaint will be investigated by the Board only or by the Department with the oversight of the
294 Executive Director. Regardless of how a Complaint is received, it shall be promptly provided to
295 the Department and to the Executive Director. The Executive Director, in consultation with the
296 Board, may decline to investigate a Complaint.

297 (b) **Investigate Incidents.** If the Board becomes aware of an Incident, including the use of force
298 by a law enforcement officer, death or serious injury to any individual held in custody, serious
299 abuse of authority or misconduct as defined in this Article, an allegedly discriminatory stop, or
300 another incident regarding the conduct of an employee of the Department, even if no Complaint
301 has been filed, the Board may initiate its own investigation of the Incident, by notice from the

302 Board Chair to the City Manager and the Chief of Police, who shall ensure the Department's
303 cooperation with the investigation.

304 **Sec. 2-458 - Investigations of both Complaints and Incidents.**

305 (a) **Compliance.** Any investigation shall comply with all federal, state, and local laws.

306 (b) **Garrity.** The Board may not compel a statement from any Department employee.

307 (c) **Exclusions.** The Board shall not consider complaints, incidents, claims or issues involving the
308 following:

309 (1) Any incident that occurred more than one year before the filing of the
310 Complaint (unless the Board determines that there is good cause to extend the
311 filing deadline);

312 (2) A matter that was the subject of an investigation where more than seventy-five
313 (75) days has elapsed since the Department sent notice to the Complainant
314 informing the Complainant that the Department's Internal Affairs investigation
315 is complete (unless the Board determines that there is good cause to extend the
316 filing deadline);

317 (3) Matters that are the subject of a pending criminal proceeding in any trial court,
318 a pending or anticipated civil proceeding in any trial court (as evidenced by a
319 Notice of Claim or a filed complaint), or any pending City of Charlottesville
320 grievance proceeding;

321 (4) Any financial management related issue;

322 (5) Any complaint, incident, claim or issue where the Complainant requests that the
323 Board not have access to their files;

324 (6) Any complaint, incident, claim or issue that has previously been the subject of
325 an investigation by the Board, unless substantial new information has come to
326 the attention of the Board;

327 (7) An allegation of misconduct only by employees of law enforcement agencies
328 other than the Department. Such complaints should be referred to the
329 appropriate law enforcement agency;

330 (8) An allegation of conduct that does not violate the Charlottesville Police Policies
331 and Guidelines, Disciplinary Orders, or Code of Conduct; or

332 (9) Any other claim outside the scope of the Board's authority.

333 (d) **Exceptions to time limits.** The Board may review investigations beyond the time limits
334 specified in subsections (c)(1) and (c)(2) if:

335 (1) The board determines that there is good reason for doing so, or

336 (2) As part of an audit taking place under Section 2-462(b).

337 (e) **Suspension of Investigations.** If a Complaint asserts criminal conduct by an employee of the
338 Department, or if at any point in an investigation of a Complaint or Incident the Board becomes
339 aware that an employee may have committed a criminal offense, the Board shall:

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

345 (2) Evaluate, in consultation with Board legal counsel, the City Attorney, and the
346 Commonwealth's Attorney, whether competing public interests and civil rights
347 involved permit the resumption of continued, parallel investigation by the
348 Board.

349 (f) **Subpoenas.**

350 (1) If the Board determines that there is evidence (including witnesses) not within
351 the control of the Department that the Board is unable to obtain voluntarily, the
352 Board by two-thirds vote may direct the Executive Director, on behalf of the
353 Board, to apply to the Charlottesville Circuit Court for a subpoena compelling
354 the attendance of such witness or the production of such books, papers, and
355 other evidence, and the Court, on finding that the witness or evidence is
356 material to the discharge of the Board's duties, may issue the requested
357 subpoena.

358 (2) If the Executive Director is denied access to material witnesses, records, books,
359 papers, or other evidence within the control of the Department that the
360 Executive Director deems necessary to perform their duties and the duties of

361 the Board, the Executive Director may request the City Manager to require the
362 Department to produce the requested witnesses and documents. The City
363 Manager, or their designee, shall not unreasonably deny such a request, but
364 may place conditions on the production of the requested witnesses and
365 documents as necessary to preserve confidentiality for the reasons set forth in
366 this ordinance. The City Manager, or their designee, shall issue a decision on the
367 Executive Director’s request within 5 business days from the date of that
368 request.

369 (3) If the City Manager, or their designee, denies the Executive Director’s request
370 made pursuant to subparagraph (2) above, the Board by two-thirds vote may
371 direct the Executive Director, on behalf of the Board, to apply to the
372 Charlottesville Circuit Court for a subpoena compelling the attendance of such
373 witnesses or the production of such books, papers, and other evidence. The
374 Court, on finding that the witness or evidence is material to the discharge of the
375 Board’s duties, shall cause the subpoena to be issued with such conditions as
376 the Court may deem necessary to protect the Department’s concerns about the
377 need for confidentiality. The Board shall give the Department reasonable notice
378 of its intent to subpoena such witness or records, and shall give the City
379 Attorney a copy of the request for subpoena. The Board shall not unreasonably
380 withhold its agreement to limitations on the scope of the subpoena requested
381 by the City Manager or their designee that may be necessary to protect
382 confidential information. The parties may request that any hearing to be held in
383 the Circuit Court on the request for a subpoena be conducted in a closed
384 courtroom, to the extent permitted by state law. Upon request, the court file
385 for any such subpoena request shall be kept under seal to the extent permitted
386 by state law.

387 (4) If a subpoena is granted, the Board shall digitally record any interviews or
388 depositions conducted pursuant to the subpoena, and shall make copies of any
389 documents obtained by subpoena. The Board shall provide the Department
390 with copies of any such interview/deposition recordings and documents. The
391 Board shall delegate its authority to subpoena and question witnesses to the
392 Executive Director, who shall conduct any interviews, depositions, or
393 questioning of witnesses in a non-public forum that adequately protects the
394 privacy of the individual being subpoenaed, the confidentiality or sensitivity of
395 information shared or sought, and the integrity of any pending or concurrent
396 investigation.

397 (5) In deciding whether, and under what conditions, the Circuit Court will issue any
398 subpoena, the Court shall refer to procedures and caselaw decided under Rule
399 3A:12 of the Rules of the Supreme Court of Virginia.

400 (g) **Conduct of Investigations Pursuant to §2-457(a).**

401 (1) Unless the Complainant asks that the Complaint be investigated by the Board
402 without the involvement of the Department, the Complaint shall be investigated
403 by the Department with the oversight of the Executive Director, as set forth in
404 paragraph (2), below. When the investigation is concluded, the Department
405 shall make an Investigative Report, with a copy to the Board and to the
406 Complainant, summarizing their findings on the question of whether there was
407 any employee misconduct. The Executive Director shall also report to the Board
408 and to the Complainant on the question of whether the Department’s findings
409 were supported by the information available to the Department, and on the
410 question of whether the investigation done by the Department was adequate to
411 support those findings.

412 (2) The Executive Director may oversee all investigations of Complaints of employee
413 misconduct conducted by the Department, and shall have access to records and
414 witnesses to the same extent as the Department. Such oversight may include
415 reviewing the investigative plan of the Department, reviewing with the
416 Department any records within the Department’s digital evidence management
417 system, reviewing with the Department any pertinent law enforcement records
418 within the Department’s Records Management System, observing any and all
419 real-time interviews of witnesses with the Department, reviewing all recorded
420 interviews which the Executive Director chooses not to attend in real time,
421 providing feedback during the interview to be relayed to Department staff
422 conducting the interview, providing feedback to Department staff in
423 determining next steps in the investigative process, and reviewing facts gained
424 from investigation with Department staff. For active investigations, the
425 Executive Director shall be limited in their participation to the same extent the
426 Department is limited in its participation in such investigations. The Executive
427 Director may oversee the Department’s administrative investigation of
428 employee misconduct- after the close of the active investigation in the same
429 manner as all other investigations of employee conduct handled by the
430 Department as described in this section. When overseeing Department
431 investigations, the Executive Director shall not disclose confidential information.

432 (3) If the Complainant asks that the Complaint be investigated by the Department,
433 the Complaint will be investigated by the Department with oversight from the

434 Executive Director. When the Department’s investigation is concluded, the
435 Department will provide the Complainant with an Investigative Report of its
436 findings and the resolution of the Complaint, and will provide the Board a
437 summary of the Department’s resolution of the Complaint.

438 (4) If the Complainant asks that the Complaint be investigated only by the Board,
439 the Executive Director shall initiate an investigation on behalf of the Board. The
440 Executive Director will provide the Chief of Police with enough identifying
441 information to allow the Department to give the Executive Director access to
442 any police reports, names and contact information of any witnesses, videos,
443 audio tapes, or other physical evidence relevant to the Complaint. When the
444 Board’s investigation is concluded, the Executive Director will provide the Board,
445 the Complainant and the Department with an Investigative Report that includes
446 a summary of the circumstances of the incident(s) of alleged misconduct, the
447 evidence related to whether there was any misconduct, and any suggested
448 findings related to each allegation.

449 (5) Any investigation will be completed, and any Investigative Report will be
450 submitted, within sixty (60) days from the date the Complaint is filed. The Board
451 may extend the 60-day period upon request of the Police Chief or the Executive
452 Director to protect an ongoing investigation or prosecution, or for other good
453 cause, with notice to the Complainant and the City Manager.

454 (h) **Conduct of Investigations Pursuant to §2-457(b).** If the Board is investigating an Incident
455 under the authority of §2-457(b), the Board may request information from the Department, may
456 seek subpoenas as authorized above, and may conduct such an investigation as is necessary to
457 permit the Board to prepare a Preliminary Investigative Report, making findings about whether
458 there was any employee misconduct in the Incident under investigation. The Preliminary
459 Investigative Report shall be provided to the Department and to any employees identified as
460 having committed employee misconduct.

461 **Sec. 2- 459 – Matters on which the Board may Conduct Hearings**

462 (a) **Review Request.** Within 10 business days of the issuance of any Investigative Report, the
463 Complainant or the Board may file a Review Request with the Executive Director, asking that a
464 hearing be held on the allegations in the Complaint. A Review Request shall be deemed filed
465 when it is received by the Executive Director. In any Review Request reviewing a matter where
466 the Complainant has not previously authorized Board involvement in the investigation, the
467 Complainant must grant permission for the Board to have access to the Internal Affairs files and
468 evidence if they wish to pursue a Review Request.

469 (b) **Hearing to be scheduled.** The Board shall schedule a prompt hearing on the Review Request.
470 The hearing will be conducted pursuant to the Operating Procedures issued pursuant to §2-
471 460(a).

472 (c) **Report on findings on Review Request.** Within 30 days of the hearing pursuant to a Review
473 Request, the Board shall report publicly and to the City Manager, the Police Chief and the
474 Complainant that it has made one of the following findings with respect to each allegation or
475 issue under review:

476 (1) That the Board finds that the investigation of the Complaint was satisfactory,
477 and the Board concurs with the findings of the investigation;

478 (2) That the Board finds that the investigation of the Complaint was satisfactory,
479 but the Board does not concur with the findings of the investigation, in which
480 case the Board may make recommendations to the City Manager concerning
481 disposition of the Review Request; or

482 (3) That the Board finds that the investigation is incomplete or otherwise
483 unsatisfactory and provides a detailed written explanation of the basis for such
484 finding.

485 (d) **Investigations in Support of Review Requests.** The Board may initiate an independent
486 investigation of any matter that was the subject of a Review Request proceeding where the
487 Board determined the Department investigation was incomplete or unsatisfactory under
488 paragraph (c)(3), above. After the additional independent investigation, the Board shall report
489 publicly that it has made one of the following findings with respect to each allegation or issue
490 under review:

491 (1) That the Board now finds that the investigation of the Complaint was
492 satisfactory, and the Board concurs with the findings of the Investigative Report;

493 (2) That the Board now finds that the investigation of the Complaint was
494 satisfactory, but the Board does not concur with the findings of the Investigative
495 Report, in which case the Board may make recommendations to the City
496 Manager concerning disposition of the Complaint; or

497 (3) That despite the Board’s best efforts, the evidence is insufficient to allow the
498 Board to determine whether the findings of the Investigative Report are correct.

499 (e) **Preliminary Investigative Report.** After receiving a Preliminary Investigative Report as
500 provided in §2-458(h), the Board may hold a hearing on the allegations in the Preliminary

501 Investigative Report. The Board shall report its findings within thirty (30) days of the hearing.
502 The Board shall report publicly and to the City Manager and the Police Chief that it has made
503 one of the following findings with respect to the Incident under review:

- 504 (1) That the Board finds that a Department employee committed misconduct;
- 505 (2) That the Board finds that no Department employee committed misconduct; or
- 506 (3) That despite the Board’s best efforts, the evidence is insufficient to allow the
507 Board to determine whether any Department employee committed misconduct.

508 **Sec. 2- 460. – Hearing Procedures**

509 (a) **Hearing Procedures.** The Board shall conduct all hearings following the procedures set forth
510 in a separate document, approved by City Council, entitled “Police Civilian Oversight Board
511 Operating Procedures,” which is incorporated herein by reference. Those procedures may be
512 modified from time to time by City Council, in consultation with the Board. Parties to the
513 hearing shall have no right to a particular set of procedures. The hearing shall be conducted by
514 a Hearing Examiner, who may make reasonable amendments to the procedures as
515 circumstances concerning a particular Complaint may require, provided that (i) any such
516 modifications are within the authority of the Board under City policy or ordinance; and (ii) no
517 such modification deprives any party to a hearing of substantial justice.

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

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

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

- 530 (1) Upon making a finding that an employee has engaged in a serious breach of
531 departmental and professional standards, the Board shall meet to discuss
532 appropriate recommendations for disciplinary action. The Board shall consult

533 with the employee’s direct supervisor or commander, complainants and
534 witnesses when discussing the appropriate disciplinary action to be
535 recommended. Prior to commencement of any such disciplinary deliberations,
536 the subject employee shall be given notice of the proceedings and of the range
537 of disciplinary actions under consideration, and the employee shall be offered
538 an opportunity to be heard. If permitted by FOIA, some or all of the disciplinary
539 hearing may be held in closed session. No employee, and no other City
540 employee, shall be compelled to provide statements to the Board during its
541 deliberations. Disciplinary action to be considered for recommendation by the
542 Board shall include those specified within any applicable disciplinary matrix
543 utilized by the Department. After considering these sources of information, the
544 Board may make a disciplinary recommendation to the Department.

545 (2) If the Board makes a disciplinary recommendation to the Department, and the
546 Department declines to implement the Board’s disciplinary recommendations,
547 the Chief of Police shall, within thirty (30) days of the Board’s recommendation,
548 provide a written explanation of their reason for declining to implement the
549 Board’s recommendation. This explanation shall be made available to the
550 Board, the City Council, the City Manager, and the public.

551 (b) **No effect on grievance rights.** Nothing in this ordinance shall affect in any way any right of
552 any employee to file a grievance requesting a hearing before the City’s Personnel Appeals Board;
553 nor shall any finding by the Board or recommendation of the Board be admitted in any
554 personnel appeal or grievance hearing.

555 **Sec. 2- 462. - Board Review of Law Enforcement Policies, Practices and**
556 **Procedures**
557

558 (a) **Authority to make policy recommendations.** The Board may review and make
559 recommendations regarding policies, practices, and procedures of the Department, including
560 written policies, procedures and standing orders. The Board shall present in writing its findings
561 and recommendations with supporting rationale to City Council, the City Manager and Chief of
562 Police. If the Department declines to implement any changes recommended by the Board, the
563 Chief of Police shall explain in writing, which shall be made available for public inspection, why
564 the Department declines to implement the Board’s recommendation, unless the Board instead
565 withdraws the recommendation based on the rationale provided. The Board's withdrawal of
566 any such recommendation shall be made available for public inspection.
567

568 (b) **Executive Director’s authority to conduct audits.** The Board may direct the Executive
569 Director on its behalf to conduct retrospective examinations and audits of patterns in Internal
570 Affairs investigations, arrest and detention, and other public-police interactions. The Board may

571 request information from the Department, may seek subpoenas as authorized above, and may
572 conduct such an investigation as is necessary to permit the Board to perform the audit.

573

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

575

576 During the City Manager’s preparation of a proposed City budget, the Budget Office shall
577 provide the Board with annual expenditure estimates and future year projections for the
578 Department, itemized to the same level of detail as provided to the City Manager. The
579 estimates shall be presented to the Board at the same time they are presented to the City
580 Manager. The Board may review the estimates and may make budgetary recommendations to
581 the City Manager and/or to the City Council during the annual budget process.

582

583 **Sec. 2-464. - Legislative Recommendations and Annual Report.**

584

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

589

590 (b) **Annual Report.** On or before April 15 of each calendar year, the Board shall provide the City
591 Council with an annual report of activities conducted during the preceding calendar year. The
592 report shall detail the Board’s activities in the prior calendar year, with sections related to the
593 appointment of committees and their actions; the establishment of any community advisory
594 panels; an overview of complaints received during the calendar year including the number of
595 complaints, the complaints’ findings, and the number of complaints deferred due to pending
596 proceedings; the number and outcome of any independent investigations; an overview of
597 proposed policy recommendations and amendments to Department policies and whether the
598 recommendations and amendments were implemented by the Department; the number, type,
599 and attendance at community listening sessions; recommendations of the Board about policing
600 within the City; and any other information necessary to provide an overview of the Board’s
601 activities.

602

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

604

605 (a) **Community Outreach.** The Board and the Executive Director shall engage in community
606 outreach to seek the assistance and input of community members. At least twice a year, the
607 Board shall host public community listening sessions to discuss policing matters of pressing
608 public concern, including the impacts of local policing on historically disadvantaged communities
609 that currently experience or traditionally have experienced disparate policing.

610

611 (b) **Community meetings.** The Board may also host or participate in public police-community
612 relations meetings, in which Board members, supported by the Executive Director, Department
613 officials, designated by the Chief of Police, and community members discuss policing matters of
614 pressing public concern, including questions about transparency, availability, legitimacy, mutual
615 respect and trust, equitable treatment, social and racial justice, equal rights, and community
616 safety and order.

617
618 (c) **Include in reports.** The Board shall report on its community outreach and engagement
619 activities, public input, and any recommendations for community-policing initiatives or for
620 improved police-community relations at least annually as part of the annual report provided for
621 in Section 2-464(b).

622

623 **Section 2-466. - Training**

624

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

630

631 (b) **City or CPD training.** At least once every two years, and within six months of any new Board
632 appointments, the City, assisted by the Executive Director and the Chief of Police or their
633 designees, shall provide Board members with training or information:

634

635 (1) Describing the legal and ethical obligations of members of a public board,
636 including the need to comply with FOIA and other statutes and ordinances
637 governing their service;

638

639 (2) Explaining Police Department procedures, policies, and regulations;

640

641 (3) Describing the substance of Police Department personnel record-keeping;

642

643 (4) Describing such other City policies, procedures and systems relevant to the
644 duties of the Board; and

645

646 (5) Explaining the Code of Ethics for the Board.

647

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

650

651 (d) **Additional training.** As needed, the City shall provide Board members with additional
652 relevant training by subject matter experts on subjects that may include mental health, trauma-
653 informed policing, civil rights and constitutional law, race and racism, community outreach,
654 mediation, investigation, and policing practices.
655

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

- 657
- 658 (a) **Soliciting public comment.** The Board may solicit comments from the public concerning
659 incidents of exceptional performance by employees of the Department.
660
- 661 (b) **Exemplary employees.** The Board may consult with the Chief of Police regarding individual
662 employees who have made outstanding contributions exemplary of equitable, just, and
663 professional policing.
664
- 665 (c) **Recognition of outstanding contributions.** The Board may issue public citations recognizing
666 individuals deemed to have made such contributions.
667

668 **Section 2-468. – Mediation**

669

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