

## ARTICLE I. IN GENERAL

### Secs. 16-1—16-25. Reserved.

## ARTICLE II. DEPARTMENT\*

### DIVISION 1. GENERALLY

#### Sec. 16-26. Control and supervision.

The chief of police of the Charlotte-Mecklenburg Police Department, subject to the general supervision of the city manager, is held responsible for the discipline, good order and proper conduct of the department.

(Code 1985, § 16-16)

#### Sec. 16-27. Composition.

The personnel of the police department shall consist of a chief of police and such other officers and employees as may be authorized from time to time by the council.

(Code 1985, § 16-17)

#### Sec. 16-28. Power and authority.

(a) Law enforcement officers of the city shall have all powers and authorities, which are or may be vested in them by the laws of this state and by this Code. Such powers shall include, but not necessarily be limited to, the enforcement of state statutes and sections of this Code affecting the peace and well-being of the city.

(b) By empowering other city personnel to administer and enforce certain sections of this Code, the city council in no way intends to limit, nor does it limit, the power of law enforcement officers of this city to administer and enforce sections of this Code by the issuance of citations or by any other lawful means.

(Code 1985, § 16-18)

#### Sec. 16-29. Appointment and compensation of members.

Members of the police department shall be appointed by the city manager from the appropriate register prepared by the civil service board,

\*Charter reference—Civil service, § 4.61.

and they shall be entitled to such pay and allowances as may from time to time be fixed by the council.

(Code 1985, § 16-19)

#### Sec. 16-30. Workers compensation for Charlotte-Mecklenburg Police Reserve Officers.

(a) A Charlotte-Mecklenburg Reserve Officer who is injured while undergoing official training or while performing official law enforcement duties on behalf of the city, shall be entitled to benefits pursuant to law under the North Carolina Workers' Compensation Act.

(b) Nothing in this section prohibits the city from asserting a defense or from entering into negotiations with any party.

(Ord. No. 3666-X, § 1, 8-27-2007)

### Secs. 16-31—16-55. Reserved.

### DIVISION 2. CITIZENS REVIEW BOARD

#### Sec. 16-56. Creation; composition; terms; compensation; appointments; vacancies; quorum; removal.

(a) There is hereby established a citizens review board to be composed of 11 members: five members to be appointed by the city council, three members to be appointed by the mayor and three to be appointed by the city manager. The appointing authorities shall ensure that the members of the board are representative of the community.

(b) Members must be continually domiciled within the county and must be registered to vote within the county.

(c) Board members shall attend and successfully complete the Charlotte-Mecklenburg Police Department's Citizens' Academy and receive training on relevant legal and policy issues as required by the city manager. This training must be completed prior to any board appointee serving as a member of the board.

(d) Individuals with a felony conviction or a class A1 misdemeanor conviction shall not be eligible to serve on the board. In addition, indi-

viduals with a class 1 or class 2 misdemeanor conviction within three years of their nomination for appointment shall be ineligible to serve. Further, conviction of or a plea of nolo contendere to a felony, a class A1 misdemeanor, a class 1 misdemeanor, or a class 2 misdemeanor during the term of office shall automatically terminate membership on the board, irrespective of any appeals. Board members charged with a felony, a class A1 misdemeanor, a class 1 misdemeanor, or a class 2 misdemeanor during a term of office shall be automatically suspended until disposition of the charge, and a quorum shall be established from the remaining membership.

(e) Prior to serving, each board member must sign a confidentiality agreement that is satisfactory to the city and which shall require that members maintain as confidential any information classified as confidential by state law or otherwise classified as confidential by the city.

(f) The members shall serve staggered terms of office for three years, with no member serving more than two consecutive terms.

(g) The board shall elect a chairperson and vice-chairperson from the membership.

(h) When a vacancy occurs, the original appointing authority shall appoint a person to serve for the unexpired term of the vacant position.

(i) Six members shall constitute a quorum in order to hold business meetings and hearings. Members are required to attend all business meetings and hearings in accordance with the attendance policies promulgated by the city council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section.

(j) All members shall serve without compensation.

(k) Members of the board shall be subject to removal from office by a two-thirds vote of the city council.  
(Code 1985, § 16-34)

### **Sec. 16-57. Meetings.**

(a) The citizens review board shall hold regular meetings as scheduled by resolution of the board. The affirmative vote of a majority, a quorum being present, shall be required before any recommendation is made on any matter considered. A majority vote shall be required for any decision made by the board.

(b) Special meetings may be called by the chairperson to carry out any duties described in section 16-58 by giving each member notice in writing, by providing personal notice, or by leaving notice at the member's residence not less than 72 hours prior to the time set for the meeting.  
(Code 1985, § 16-35; Ord. No. 2344, § 1, 7-28-2003)

### **Sec. 16-58. Duties and responsibilities.**

(a) The citizens review board shall:

- (1) Serve as an advisory board to the chief of police, the city manager, and the city council.
- (2) Review appeals by the citizens who filed complaints of disciplinary dispositions imposed by the chief of police or his designee relating to allegations of misconduct against a sworn police officer. The board may hear appeals of complaints regarding alleged violations of the following rules: use of force, unbecoming conduct, and arrest, search and seizure. In addition, the disposition of the review of any discharge of a firearm by an officer which results in the death or injury of a person may be appealed to this board by the person injured or the next of kin if death occurs. When a death results and there is no next of kin, any member of the city council or the chairperson of the community relations committee may file an appeal pursuant to section 16-59. The disciplinary actions that may be reviewed shall include the findings of the chief of police that an allegation has been categorized as: sustained, not sustained, exonerated, or unfounded. The dispositions that may be reviewed for the discharge of firearms shall include: justified, not justified, or

accidental. The board may review only appeals of citizen complaints arising from incidents that occur after the effective date of the ordinance from which this section derives. The board may not review appeals of decisions of the city manager or the civil service board.

- (3) Determine whether to hold an appeal hearing. The board may hold an appeal hearing only when it appears, based upon a preponderance of the evidence, that the disposition of the disciplinary charges entered by the chief of police constituted an abuse of discretion by the chief of police.
- (4) Conduct appeal hearings, which include receiving and evaluating testimony and issuing findings of fact and recommendations to the chief of police and the city manager. The duty and power of the board is to conduct an appeal hearing and to determine whether, by a preponderance of the evidence, the chief of police abused his discretion by:
  - a. Finding in a disciplinary action that allegations were sustained, not sustained, exonerated or unfounded; or
  - b. Finding in connection with the discharge of a firearm that the officer's action was justified, not justified, or accidental.
- (5) As required by state law, maintain as confidential all personnel information to which the members gain access as a member of the board. In addition, board members shall be required to execute and adhere to a confidentiality agreement that is satisfactory to the city.

(b) The citizens review board shall promulgate rules and regulations to effect its exercise of authority under this division and shall keep such rules and regulations on file with the city clerk. (Code 1985, § 16-36)

#### **Sec. 16-59. Appeal procedure.**

(a) Under this division, all complaints will be investigated by the police department. Upon completion of an investigation, the chief of police

shall, consistent with state law, notify the complainant by certified letter of the disposition of the complaint. The complainant also shall be informed of his right to appeal the decision of the department to the citizens review board.

(b) All appeals to the citizens review board must be filed in writing with the city clerk's office. The request must state the reason for the appeal and the nature of the incident. The citizen may seek the assistance of the community relations committee in drafting and filing his appeal. The citizen must file this appeal within seven calendar days of receiving written notice of the disposition of the complaint. The citizen must provide a valid current address for the purpose of all notifications required to be made pursuant to this division.

(c) Upon receiving a request for an appeal hearing, the chairperson of the board shall direct the chief of police to prepare a summary of the case and forward the summary to the chairperson of the board. A meeting of the board will be held to discuss the request for appeal. (Code 1985, § 16-37)

#### **Sec. 16-60. Necessity for hearing.**

(a) Upon receiving a request for an appeals hearing, a meeting of the board will be held within 30 calendar days of the request.

(b) In a public session, the chairperson shall indicate whether the board has decided to hold a hearing and, if so, shall announce the date, time and place of the hearing. The chairperson shall notify the complainant and other involved parties in writing of the decision and, if a hearing is to be held, also shall advise all parties in writing of the reasons for the decision to hold a hearing. (Code 1985, § 16-38; Ord. No. 1779, § 1, 3-26-2001)

#### **Sec. 16-61. Hearing procedures.**

(a) If the citizens review board decides to conduct a hearing, it shall be concluded within 30 calendar days of the date of the decision to hold an appeal hearing. Should the complainant or the department desire a hearing date other than that set by the board, the complainant or the depart-

ment shall submit a written request for a change of the hearing date, stating the reason for the request. The chairperson shall approve or disapprove such request, provided that such request is received by the board at least seven calendar days prior to the date of the hearing. For good cause, the chairperson may continue the hearing from time to time, but all appeals must be concluded within 30 calendar days from the date of the decision to hold an appeal hearing. The hearing shall be conducted in a closed session, with at least six members of the board present.

(b) All witnesses must testify under oath.

(c) All of the proceedings before the board shall be recorded.

(d) All parties involved shall have the right to be represented by counsel or any other person of their choice.

(e) The complainant shall offer evidence first in support of his appeal. The department and officer shall have the right to cross examine the complainant and his witnesses. Thereafter, the department and officer shall have the right to offer evidence, and the complainant shall have the right to cross examine the department's and officer's witnesses. At the conclusion of all the evidence, the complainant or his representative, followed by the department and officer, may make a closing statement.

(f) Members of the board may question witnesses or request additional information or further investigation at any point in the process.

(g) Members who, in a particular case, have a conflict of interest shall not attend or participate in the hearing and decision-making process.

(h) Within ten calendar days after the conclusion of the hearing, the board shall issue its written findings of fact to the chief of police and the city manager along with a recommendation. The findings of fact must be supported by a preponderance of the evidence and approved by a majority of the board who were present at the hearing.

(Code 1985, § 16-39)

**Sec. 16-62. Action by chief of police and city manager.**

(a) The chief of police shall review the findings of fact of the citizens review board and any other information at his disposal. The chief of police shall take such action as he deems appropriate, consistent with state law and city policy. The chief of police will then, within seven calendar days of the receipt of the board's recommendations, report his decision to the city manager.

(b) The city manager shall review the decision of the chief of police and, within seven calendar days of the receipt of the decision of the chief of police, take such action as he deems appropriate, consistent with state law, and shall advise the chief of police of any intended action.

(c) The city manager shall notify all parties, including the citizens review board, of the decision of the city manager consistent with state law and city policy. The city manager also shall advise the city council of the outcome of the appeal. Notifications made under this subsection must be made within seven calendar days of the date that the decision of the city manager was initially communicated to the chief of police.

(Code 1985, § 16-40)

**Sec. 16-63. City clerk's duties; meeting places; staff.**

(a) Under this division the city clerk shall:

- (1) Act as secretary to the citizens review board;
- (2) Keep the minutes of its meetings;
- (3) Be custodian of all papers and records pertaining to the business of the board; and
- (4) Perform such other duties as the board may require.

(b) The city council shall provide sufficient and reasonable rooms and use of public buildings for meetings and hearings of the board as may be necessary.

(c) The city manager shall assign staff to support the functions of the citizens review board.

(Code 1985, § 16-41)

**Sec. 16-64. Reports.**

The citizens review board shall make a semi-annual and an annual report of its actions for each preceding year. These reports shall be kept in the files of the board and a copy delivered to the chief of police, city manager, city council and the community relations committee.

(Code 1985, § 16-42)