

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF ATHENS-CLARKE COUNTY, GEORGIA BY ADOPTING A NEW CHAPTER 3-18, “**PUBLIC SAFETY CIVILIAN OVERSIGHT BOARD**” IN TITLE 3 “PUBLIC SAFETY” AND FOR OTHER LAWFUL PURPOSES

WHEREAS, issues related to public safety are of primary concern to all citizens of Athens-Clarke County; and

WHEREAS, it is incumbent upon the Unified Government of Athens-Clarke County to ensure that agencies directly responsible for public safety, particularly the Athens-Clarke County Police Department, Athens-Clarke County Probation Services, the Clarke County Sheriff’s Office, and the Athens-Clarke County Corrections Department, have the proper support from the Unified Government and its various agencies; and

WHEREAS, it is similarly incumbent upon the Unified Government of Athens-Clarke County to instill confidence in its citizenry to redress grievances against the Unified Government and its employees; and

WHEREAS, it is important that allegations of law enforcement and/or corrections officer misconduct be reviewed by a credible, independent review Board; and

WHEREAS, the codified establishment of a civilian advisory board known as the Public Safety Civilian Oversight Board in Athens-Clarke County will help to prevent future incidents of law enforcement or corrections misconduct and/or abuses of civil rights, reduce the amount of money needed to satisfy judgments and settlements based upon allegations of law enforcement or corrections misconduct, promote public confidence in law enforcement and corrections operations, and lessen the possibility that future incidents of urban unrest will occur.

NOW THEREFORE, the Mayor and Commission of Athens-Clarke County, Georgia, hereby ordains and orders that the Code of Ordinances of Athens-Clarke County shall be amended as follows:

SECTION 1

Title 3, Public Safety, of the Code of Ordinances of Athens-Clarke County shall be amended by adding a new Chapter 3-18, titled "Public Safety Civilian Oversight Board," which chapter shall read as follows:

Chapter 3-18.- PUBLIC SAFETY CIVILIAN OVERSIGHT BOARD

Sec. 3-18-1. Establishment of the Athens-Clarke County Public Safety Civilian Oversight Board.

1. The Athens-Clarke County Public Safety Civilian Oversight Board is hereby established to provide a permanent citizen’s oversight board in Athens-Clarke County that shall:
 - a. Process and ensure investigation of complaints lodged by members of the public regarding alleged abuse of authority, appropriate action required, abusive language, conduct unbecoming, discrimination, failure to provide identification,

false arrest, false imprisonment, harassment, use of excessive force, misconduct, retaliation, serious bodily injury, violation of department standard operation procedures, and/or death that is alleged to be the result of the actions of a sworn employee of the Athens-Clarke County Police Department, Athens-Clarke County Probation Services, the Clarke County Sheriff's Office, or the Athens-Clarke County Corrections Department; and

- b. Review, evaluate, and make recommendations regarding policies and procedures of the Athens-Clarke County Police Department, Athens-Clarke County Probation Services, the Clarke County Sheriff's Office, and the Athens-Clarke County Corrections Department.
2. The Public Safety Civilian Oversight Board's initial duty upon creation shall be to prepare and submit a recommendation to the Government Operations Committee for review and approval, at the discretion of the Government Operations Committee, detailing (i) recommended staffing levels that the Board deems necessary to complete its work; (ii) the duties, qualifications, and responsibilities of the Public Safety Civilian Oversight Auditor/Monitor who shall support the Board, bearing in mind that the Board may recommend a role and/or title other than that of "Auditor/Monitor," which is merely being used as a placeholder at this time; and (iii) policies and procedures that shall apply to the operations of the Board.
3. Both the Public Safety Civilian Oversight Board and the Public Safety Civilian Oversight Auditor/Monitor shall report to and be subject to appointment and/or removal by the Mayor and Commission of Athens-Clarke County.
4. The jurisdiction of the Public Safety Civilian Oversight Board shall extend only to complaints against sworn law enforcement and/or correctional officers with respect to alleged abuse of authority, appropriate action required, abusive language, conduct unbecoming, discrimination, failure to provide identification, false arrest, false imprisonment, harassment, use of excessive force, misconduct, retaliation, serious bodily injury, violation of department written directives and/or standard operation procedures, and/or death that is alleged to be the result of the actions of a sworn law enforcement and/or correctional officer.

Sec. 3-18-2. Definitions.

The following words and phrases as used in this chapter shall have or include the following meanings:

Abuse of authority shall mean using their authority as an Officer to abuse, harass, oppress, or persecute any person.

Appropriate action required shall mean that employees shall respond in an appropriate manner to all situations by:

- (a) Being considerate of the rights, feelings, and interests of all persons;

- (b) Taking action in each situation to provide the necessary and appropriate service based on established case law and department policy and ensuring proper notification of the proper superiors or supervisors when indicated by the circumstances; and/or
- (c) Requesting the assistance of supervisors when the appropriate action required is unclear or not possible given the circumstances, or not within the scope of authority of the employee of whom such action was requested. Conversely, a supervisor will not direct a subordinate employee to undertake an action that is not within the scope of the supervisor's authority.

Abusive language shall mean harsh, violent, profane, or derogatory language that would demean the dignity of an individual and that shall include profanity and racial, ethnic, or sexist slurs.

Conduct Unbecoming shall mean that employees shall not act in an official or private capacity in a manner that shall bring discredit upon their respective department or themselves. Employee misconduct includes but is not limited to engaging in offensive, unprofessional, lewd, and/or unethical behavior toward the public, inmates/detainees, fellow employees, and/or supervisory personnel.

Discrimination shall mean actions or decisions affected by prejudice of gender, race, color, religion, sexual orientation, social class, position or standing in the community, or political belief.

Discriminatory references shall mean reference to any person in a derogatory manner because of their gender, race, color, religion, sexual orientation, social class, position or standing in the community, or political preference.

Excessive force shall mean the use of more force than is reasonable and necessary based on established case law and department policy to affect an arrest, prevent an escape, necessarily restrict the movement of a prisoner, defend himself or another from physical assault, or to accomplish other lawful objectives.

Failure to provide identification shall mean failure to provide name and badge number upon request while on duty or performing their official duties provided that time, circumstances, and safety considerations allow for such identification.

False arrest shall mean arrest by an Officer of a person that is inconsistent with established criminal arrest and detention procedures. *False imprisonment* shall mean the unlawful detention of the person of another that is inconsistent with established investigatory stop case law.

Harassment shall mean a course of unwanted, unwelcomed, and uninvited behavior that has no law enforcement or public safety purpose and is done with the intent of annoying, demeaning, threatening, intimidating, alarming, or putting a person in fear of their safety.

Officers shall mean all Athens-Clarke County Police Department, Athens-Clarke County Probation Services, Clarke County Sheriff's Office, and Athens-Clarke County Corrections Department officers certified by the Georgia Peace Officer Standards and Training (POST) Council.

Reconsideration shall mean a process that allows a citizen or Officer to request a review of a panel decision to the full board in limited circumstances. The granting of reconsideration is within the discretion of the Board.

Retaliation shall mean the act of interfering, harassing, or intimidating a person who filed a complaint, attempted to file a complaint, expressed a desire to file a complaint, or participated in the investigation of a complaint. This does not prohibit legitimate criminal investigation from continuing simply because a complaint has been filed.

Sec. 3-18-3. Powers and Duties of the Public Safety Civilian Oversight Board.

1. The Public Safety Civilian Oversight Board shall advise the Mayor and Commission, the Chief of Police, the Chief Probation Officer, the Clarke County Sheriff, and the Warden on policies and actions of the Athens-Clarke County Police Department, Athens-Clarke County Probation Services, the Clarke County Sheriff's Office, and the Corrections Department with the purpose of improving the ability of Officers to carry out their duties and to improve the relationship between their respective departments and the community.
2. The Public Safety Civilian Oversight Board shall have the power to review closed law enforcement and corrections investigations and make recommendations as necessary.
3. The Public Safety Civilian Oversight Board shall have full discretion to select appropriate individual incidents to review and broader issues to study that may be of concern to the community, the Police Department, Probation Services, the Sheriff's Office, Corrections, and/or the Mayor and Commission; provided, however, that the Public Safety Civilian Oversight Board shall, to the best extent possible, minimize duplication of effort between the Board and any other existing agencies that have jurisdiction over the same matters. The Mayor and Commission, the Manager, the Chief of Police, the Chief Probation Officer, the Sheriff, and the Warden shall ensure that all such agencies cooperate to the greatest extent legally and procedurally appropriate in the performance of their respective activities, studies, and operations.
4. The Public Safety Civilian Oversight Board may initiate studies upon request to the Board by any member of the public, the Police Department, Probation Services, the Sheriff's Office, or the Corrections Department or at the Board's own discretion. The Public Safety Civilian Oversight Board may review specific complaints or incidents of misconduct against individual Officers, including those involving language related to race, ethnicity, religion, gender, sexual orientation, or disability.
5. The Public Safety Civilian Oversight Board, at its discretion, may make specific recommendations at any time and shall issue a public report summarizing its activities and recommendations not less than once a year to the Mayor and Commission, the Chief of Police, the Chief Probation Officer, the Sheriff, the Warden, and the Manager. The Public Safety Civilian Oversight Board shall make copies of the report available to the public.
6. No finding or recommendation of the Public Safety Civilian Oversight Board shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated,

unfounded, or withdrawn complaints be the sole basis for any such finding or recommendation.

7. The Public Safety Civilian Oversight Board shall acknowledge receipt of complaints filed by individuals alleging Officer misconduct within ten business days of receiving any such complaint. Such response shall indicate whether, in the exercise of its discretion, the Board shall study the allegations made, not study them, or request additional information to enable the Board to make a decision on its options.
8. The Public Safety Civilian Oversight Board shall have the responsibility of informing the public about the Board and its duties and shall develop and administer an ongoing program for the education of the public regarding the provisions of this chapter.
9. Public Safety Civilian Oversight Board members are encouraged to participate in a minimum of three community outreach activities each calendar year.
10. The Public Safety Civilian Oversight Board shall have the power to recommend that the Chief of Police, the Chief Probation Officer, the Sheriff, and/or the Warden take certain actions:
 - a. The Public Safety Civilian Oversight Board may recommend general reforms (such as changes in training, changes in the preservation of records, changes in counseling available to Officers) or specific actions directed at individual Officers (including, but not limited to, hiring, firing, promotion, demotion, punishment, or commendation).
 - b. Provided, however, that the Chief of Police, the Chief Probation Officer, the Warden, the Sheriff, and the Manager shall retain full and ultimate authority, power, discretion, management prerogatives, and responsibility to set disciplinary policies or take other lawful actions they deem appropriate relative to their respective departments under the provisions of the Code of Athens-Clarke County, Georgia.
 - c. Provided, further, that nothing in this section shall be construed to limit the rights of members of the Police Department, Probation Services, the Sheriff's Office, and/or the Corrections Department with respect to disciplinary action, including but not limited to the right to notice and a hearing, which may be established by any provision of law or otherwise. The provisions of this section shall not be construed to prevent or hinder the investigation or prosecution of members of the Police Department, Probation Services, the Sheriff's Office, and/or the Corrections Department for violations of law by any court of competent jurisdiction, a Federal or State Grand Jury, the United States Attorney for the State of Georgia, the Athens-Clarke County District Attorney, or other authorized officer, agency, or body.
 - d. Neither the Chief of Police, the Chief Probation Officer, the Sheriff, nor the Warden shall accept a recommendation from the Public Safety Civilian Oversight Board that shall punish the same Officer more than once for the same act or omission that constitutes misconduct for which the Officer has already been punished by Athens-Clarke County unless additional evidence is discovered by

the Public Safety Civilian Oversight Board or the Officer's respective department that justifies a modification to the original punishment.

11. The Public Safety Civilian Oversight Board and its members shall not have access to or possession of any confidential law enforcement or corrections records or information derived from any such confidential law enforcement or corrections record. However, the Auditor/Monitor *may* be authorized by the Chief of Police, the Chief Probation Officer, the Sheriff, or the Warden to verbally share some confidential information with the Public Safety Civilian Oversight Board. The findings of the Public Safety Civilian Oversight Board as they may relate to conclusions drawn from interviews, study, and review of records, shall remain confidential until the Board officially releases such findings, except that all records of the Public Safety Civilian Oversight Board are subject to the requirements of the Georgia Open Records Act. Any findings and conclusions of the Board will be by majority vote and said vote shall be conducted in public. Said findings will be provided to the Mayor and Commission, the Manager, the Chief of Police, the Chief Probation Officer, the Sheriff, and the Warden within a period of three business days from the date of the vote.
12. The Public Safety Civilian Oversight Board shall review reports conducted and completed by the Public Safety Civilian Oversight Auditor-Monitor, including reports on the number of complaints reviewed/audited and findings, patterns and trends, outreach activities, and recommendations made to the Police Department, Probation Services, the Sheriff's Office, and/or the Corrections Department;
13. Evaluate the effectiveness of the Public Safety Civilian Oversight Auditor-Monitor's office.

Sec. 3-18-4. Quorum; voting; meetings.

1. Five members of the Public Safety Civilian Oversight Board shall constitute a quorum for each Board meeting.
2. Decisions of the Public Safety Civilian Oversight Board shall be made by vote of a majority of the members present at the meeting.
3. The Public Safety Civilian Oversight Board shall use "the preponderance of the evidence" as the standard of proof for all decisions.
4. All meetings shall be open to the public, except when, in accordance with the Open Meetings Act, executive sessions are required.
5. The latest edition of Roberts' Rules of Order shall determine the order of business at all meetings.

Sec. 3-18-5. Membership.

1. The Public Safety Civilian Oversight Board shall consist of nine (9) voting members and five (5) non-voting, ex-officio members. Appointment of the Board shall follow the procedure laid out in the Boards, Authorities, and Commission Handbook. All voting members shall be appointed by majority vote of the Mayor and Commission of Athens-Clarke County. Such members shall be residents of Athens-Clarke County.
 - a. The Six (6) Non-Voting Ex-Officio Members Shall Be:

- i. The Athens-Clarke County Attorney, or their designee.
 - ii. The Chief of Police of the Athens-Clarke County Police Department, or their designee.
 - iii. The Sheriff of the Clarke County Sheriff's Office, or their designee.
 - iv. The Warden of the Corrections Department, or their designee.
 - v. A member of the Athens-Clarke County Commission as appointed by the Mayor.
 - vi. The Chief Probation Officer, or their designee.
2. In appointing members to the Public Safety Civilian Oversight Board, the Mayor and Commission shall ensure that the Public Safety Civilian Oversight Board's membership reflects a diversity of age, race, socioeconomic status, gender, geographic residence, work experience, and other relevant lived experiences.
3. Anyone may apply to serve on the Public Safety Civilian Oversight Board.

Sec. 3-18-6. Terms of service of members.

For the initial term of service, the Mayor and Commission shall designate five (5) members to serve initial four-year terms and four (4) members to serve initial three-year terms. After the initial appointment of members, all members shall be appointed to serve four-year terms.

Sec. 3-18-7. Organization; rules; consultations.

1. The Public Safety Civilian Oversight Board shall hold an organizational meeting in January of each year to elect officers and transact any other authorized business. At such meetings and thereafter from time to time on the call of the Chair of the Board, the Board shall adopt and promulgate or amend such bylaws, rules, and regulations as are deemed necessary or convenient to conduct the affairs of the Public Safety Civilian Oversight Board.
2. To enable the Board to conduct its work, the Board will work with the Public Safety Civilian Oversight Auditor/Monitor. Additional staff support to the Board may be provided by the Office of the Manager, the Office of the County Attorney, the Office of Operational Analysis, the Athens-Clarke County Police Department, Athens-Clarke County Probation Services, the Clarke County Sheriff's Office, and the Athens-Clarke County Corrections Department upon the request of the Board.

Sec. 3-18-8. Officers.

1. The membership of the Public Safety Civilian Oversight Board shall elect the following officers:
 - a. The chair;
 - b. The vice-chair; and
 - c. The secretary.
2. Elected officers shall serve one-year terms from the time of their election at the organizational meeting.

Sec. 3-18-9. Training.

Public Safety Civilian Oversight Board members shall receive the training necessary to develop expertise in law enforcement and corrections oversight and community policing, including, but not limited to, the Athens-Clarke County Police Department's Citizens Police Academy, training regarding ordinances governing the Public Safety Civilian Oversight Board, a broad range of law enforcement and corrections practices and procedures, criminal arrest procedures, case law concerning use of force, practices for people in mental health crisis or under the influence of intoxicants, problem-oriented policing, cultural awareness, racial equity, civil rights, the complaint process, investigative procedures, confidentiality requirements, ethics training and public records and public meeting laws. Members shall maintain and further develop their expertise through annual training provided by the Unified Government of Athens-Clarke County.

Sec. 3-18-10. Compensation; conflict of interest; removal.

1. Each member of the Public Safety Civilian Oversight Board shall be compensated via a stipend of \$25.00 for each regularly scheduled monthly meeting the member attends in full.
2. No member of the Public Safety Civilian Oversight Board shall have a personal or financial interest, direct or indirect, in any contract with the Board or any pending investigation before the Board. Any violation of this provision by a member of this Board shall be grounds for removal pursuant to this section.
3. A member of the Public Safety Civilian Oversight Board may be recommended for removal for good cause. Good cause may be found for the following:
 - a. Incompetence,
 - b. Neglect of duty,
 - c. Misconduct,
 - d. Malfeasance, or
 - e. Failure to participate in training requirements.

Sec. 3-18-11. Vacancies.

Any membership vacancies created on the Public Safety Civilian Oversight Board for any reason whatsoever shall be filled by the Mayor and Commission within sixty (60) days to fulfill the remainder of the term.

Sec. 3-18-12. Complaint procedure.

1. Complaints shall be filed in writing and under oath with the Public Safety Civilian Oversight Board no later than one-hundred and eighty (180) days following the date of the alleged infraction. All complaints filed with the Board shall be separately submitted to the Office of Professional Standards within the Athens-Clarke County Police Department, the Chief Probation Officer, the Internal Investigation Group within the Clarke County Sheriff's Office, or the Warden, as applicable, for their review. There

shall be no filing fee, and complainants shall be provided any necessary assistance in completing a complaint form.

2. Anonymous sources, professing first-hand knowledge of alleged Officer misconduct, shall be allowed to file complaints anonymously when the complainant requests anonymity based upon a credible belief that the complainant will face prosecution or harassment. The determination of whether the request for anonymity is based upon a credible belief of prosecution or harassment shall be within the reasonable discretion of the Auditor-Monitor. However, all information provided to the Public Safety Civilian Oversight Board is subject to the Georgia Open Records Act as codified in O.C.G.A. § 50-18-72, *et seq.*
3. An explanation of the Public Safety Civilian Oversight Board's complaint procedures shall be made to all Officers through the issuance of a policy directive and shall be included in the training program for all new Officers.

Sec. 3-18-13. Reconsideration.

1. Complainants, affected Officers, the Chief of Police, the Chief Probation Officer, the Sheriff, and the Warden may file a written motion for reconsideration of a Final Finding and Recommendation or Decision of the full Board or Review Panel.
2. The full Board, by two thirds vote, may file a written motion for reconsideration of any action by the Chief of Police, the Chief Probation Officer, the Sheriff, or the Warden whereby the written response issued by the Chief of Police, the Chief Probation Officer, the Sheriff, or the Warden disagrees with a finding of fact or a Board recommendation is rejected, held due to a pending internal investigation, or will be implemented with modifications.
 - a. A written motion for reconsideration must be filed within thirty (30) days of the date of the mailing or personal delivery of
 - i. The Final Finding and Recommendation or Decision of the full Board or Review Panel, or
 - ii. Within thirty (30) days of the date of the mailing or personal delivery of the determination of the Chief, the Sheriff, or the Warden that a Board recommendation was rejected, held due to a pending internal investigation or will be implemented with modifications.
 - b. The motion for reconsideration must allege newly discovered material, relevant evidence not previously available to the alleged aggrieved party, or material, relevant mistake of fact or law.
 - c. No oral argument is permitted on a motion for reconsideration.
3. A motion for reconsideration to the Board may be granted or denied by the Auditor/Monitor, or, if deemed appropriate by the Auditor/Monitor, submitted to the full Board and granted or denied by a majority vote of the full Board. If granted, in the discretion of the Auditor/Monitor, the case may be remanded for additional investigation by the Board's staff and a Final Finding and Recommendation by the Board or submitted, without further investigation, to the full Board for a Final Finding and Recommendation.

4. A motion for reconsideration to the Chief of Police, the Chief Probation Officer, the Sheriff, or the Warden after consultation with the County Attorney, may be granted or denied by the Chief of Police, the Chief Probation Officer, the Sheriff, or the Warden. If granted, the Chief of Police, the Chief Probation Officer, the Sheriff, or the Warden may modify the prior determination or remand the case to the Board. The Auditor/Monitor, in his or her discretion, may require additional investigation by the Board's staff and a Final Finding and Recommendation by the Board or submit, without further investigation, the case to the full Board for a Final Finding and Recommendation.
5. Motions for reconsideration must be decided within twenty-eight (28) days of the date of the mailing or personal delivery of the motion for reconsideration. Non-compliance shall result in the granting of the motion for reconsideration with the relief as requested by the filing party.
6. No person or entity shall file a second motion for reconsideration.

SECTION 2

This ordinance shall take effect immediately after passage.

SECTION 3

If any section, subsection, subdivision, sentence, clause, phrase or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this ordinance shall be and remain in full force and effect.

SECTION 4

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 5

The Clerk of Commission, in consultation with the County Attorney, shall have the power to correct scrivener's errors.

SO ORDERED AND ORDAINED this ____ day of _____, 2021.

**THE UNIFIED GOVERNMENT OF ATHENS-
CLARKE COUNTY, GEORGIA**

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Kelly Girtz, Mayor

Attest: - - - - -

Jean Spratlin, Clerk of Commission