

## ARTICLE II. - LEGISLATIVE ARTICLE

### Chapter 1. The Commission

Section 2-101. Name and composition.

Section 2-102. Term of office; qualifications; disqualifications.

Section 2-103. Salary and expenses of the commission.

Section 2-104. Organization; oath; rules; quorum; meetings; records; mayor pro-tempore.

Section 2-105. Powers of the commission.

Section 2-106. Filling of vacancies.

### Chapter 2. Legislative Procedure

Section 2-201. Legislation by ordinance.

Section 2-202. Introduction, consideration and passage of ordinances and resolutions.

Section 2-203. Reserved.

Section 2-204. Submission of ordinances to mayor; effective date.

Section 2-205. Authentication; recording.

Section 2-206. Codes of technical regulations.

Section 2-207. Codification and printing of ordinances.

Section 2-208. Prima facie evidence.

### Chapter 3. Ethics and Prohibited Practices

Section 2-301. Conflict of interest.

Section 2-302. Disclosure.

Section 2-303. Testimony of public officials relating to public affairs.

Section 2-304. Contracts voidable and rescindable.

Section 2-305. Hearings and determinations; penalties for violation.

## CHAPTER 1. - THE COMMISSION

### Section 2-101. - Name and composition.

There is hereby created the "Commission of Athens-Clarke County, Georgia." Membership on the commission is a part-time position. The commission shall consist of ten (10) members, elected from districts as provided in section 6-201 of this Charter.

### Section 2-102. - Term of office; qualifications; disqualifications.

- (a) The terms of office of all members of the commission shall be four years and until their successors are elected and qualified, except that a commissioner appointed to fill a vacancy shall serve only for the balance of the unexpired term as provided in Section 2-106 of this Charter. All terms of office shall begin at the first regular commission meeting in January next following the election.
- (b) No person shall be eligible for election or appointment to the commission unless such person, on or before the date of election or appointment, shall have attained the age of twenty-one (21) years, shall be a qualified voter of the unified government, and shall have resided within the county for one (1) year and within the territorial limits of the district from which elected on the date of qualifying for election. A member of the commission shall continue to reside within the district from which elected during such member's term of office.
- (c) No member of the commission, during that member's term of office, shall hold any other federal, state or local government elective office.

(2002 Ga. Laws, p. 4246, § 1; 2012 Ga. Laws (Act No. 409), § 1)

### **Editor's note—**

The description of the districts as set forth in § 2-102(a) may be found in appendix A to this Charter.

### Section 2-103. - Salary and expenses of the commission.

- (a) The salary of each commissioner shall be \$15,000.00 per year, payable in equal monthly installments.
- (b) In addition to the salary, commissioners shall be reimbursed for all direct expenses incurred in carrying out the duties and responsibilities of the unified government.
- (c) The salary and expenses of members of the commission may be changed by ordinance, subject to the following conditions:
  - (1) No action to increase the salary or expenses of commissioners shall be taken until notice of intent to take the action has been published in the official legal organ of Athens-Clarke County at least once a week for three (3) successive weeks immediately preceding the week during which the action is taken.
  - (2) Any action to increase the salary of commissioners shall not become effective until the date of commencement of the terms of those commissioners elected at the next regular election following such action.
  - (3) No action to increase the salary of commissioners shall be taken during the period between the date when candidates for election to the commission may first qualify as candidates and the date when members of the commission take office following their election.

(2001 Ga. Laws, page 3873, § 1)

### Section 2-104. - Organization; oath; rules; quorum; meetings; records; mayor pro-tempore.

- (a) The commission shall meet for organization and swearing-in purposes on the first Tuesday after January 1, next following its election or as soon thereafter as practicable. At this meeting, the newly elected or re-elected commissioners shall each take the following oath of office, to be administered by the judge of the probate court:

"I do solemnly swear (or affirm) that I will well and truly perform the duties of Commissioner of the Unified Government of Athens-Clarke County, Georgia, and that I will support and defend the Charter thereof, as well as the Constitution and laws of the State of Georgia and of the United States of America, so help me God."

- (b) The commission, by majority vote, shall adopt rules of procedure governing the transaction of its business consistent with the provisions of this Charter; shall adopt by ordinance the time, date and place for regular meetings, which will be held at least once each month; and shall provide for keeping minutes of its proceedings by the clerk as provided in section 4-102 of this Charter.
- (c) At its first organization meeting, the commission shall select the date when it will hold its regular monthly meetings.
- (d) Seven (7) of the ten (10) members of the commission shall constitute a quorum for the transaction of business; however, a smaller number may adjourn from time to time.
- (e) Special meetings of the commission may be called by the mayor or by any five (5) commissioners upon no less than twenty-four (24) hours' written notice to each member served personally or left at the usual place of business or residence of such member. Such notice of a special meeting may be waived in writing either before or after the meeting. Subject to O.C.G.A. § 50-14-1(d), special meetings may be held at any time without notice to all commissioners, upon attendance at such meeting by all members of the commission, or by waiver of notice of those not in attendance.
- (f) All meetings of the commission, except for those exceptions provided for in general law, shall be public and any citizen shall have access to the minutes and records thereof at reasonable times.
- (g) At its first meeting in January of each year a chief elected officer (referred to as the mayor in this Charter, see article III of this Charter) pro-tempore shall be elected by and from the membership of the commission to serve for a term of one (1) year. Such an election shall take place at the first regular meeting of the commission each year and whenever necessary to fill a vacancy in the office. A commissioner elected to fill a vacancy shall only serve as such until an election for a new mayor pro-tempore is held the following year.
- (h) In the absence of the mayor for any cause, the mayor pro-tempore shall preside over meetings and discharge the duties of mayor until either the return of the mayor or the election of a new mayor. While serving as the mayor, the mayor pro-tempore shall have the same powers as a mayor and not those of a commissioner.

(Ord. of 7-2-96, § 1; Ord. of 7-6-99, § 1; Ord. of 12-4-2001, § 1)

#### Section 2-105. - Powers of the commission.

- (a) All legislative powers of the Unified Government of Athens-Clarke County, Georgia, including any such powers which may hereafter be conferred by law upon said government, shall be vested exclusively in the mayor and the commission, in accordance with the provisions of this Charter.
- (b) In addition to its legislative powers, the commission shall specifically have the power to:
- (1) Adopt and from time to time amend the budget;
  - (2) Approve or reject recommendations concerning the appointments of the manager, attorney and auditor;
  - (3) Remove from office the manager, attorney and auditor by majority vote of the entire commission; and
  - (4) Override the mayor's veto with the affirmative vote of seven (7) commissioners.

- (5) Appoint the clerk of commission by a majority vote of the entire commission, describe duties and the compensation for said office, and terminate said clerk at any time by a majority vote of the entire commission.
- (c) In the exercise of its powers, the commission shall adopt and provide for the execution of such ordinances, resolutions, rules and regulations, not inconsistent with this Charter, as may be necessary or proper for the purpose of carrying into effect the powers conferred by this Charter and for the promotion and protection of the safety, health, peace, security and general welfare of the inhabitants of the unified government and may enforce such ordinances, resolutions, rules and regulations by imposing penalties for violations thereof, as prescribed by ordinance, by a fine not exceeding \$1,000.00, or by imprisonment for a period not exceeding six (6) months, or both.
- (d) Except as otherwise provided by the Constitution, general or local law or this Charter, the commission may by ordinance create, change, alter, combine, abolish, consolidate and redefine the manner of appointment, membership, powers and duties of bureaus, boards, commissions, departments, divisions, authorities, offices and agencies of the unified government, including positions of public employment, and may transfer and delete functions and assign additional functions to any bureaus, offices, agencies, departments, divisions, boards, authorities, commissions and positions of public employment existing under this Charter. The commission may by ordinance transfer all the assets, liabilities and obligations thereof to a department, a division or other unit of a department of the unified government, which shall have the power, and its duty shall be to perform and exercise all the functions and powers theretofore performed and exercised by such board, commission, authority, division, agency, bureau, office, department or position of public employment.
- (e) Subsection (d) of section 2-105 of this Charter does not apply to any authorities or boards which were created by either a local constitutional amendment or by a local act of the General Assembly.
- (f) The commission shall have the power to conduct or cause to be conducted inquiries and investigations of the operations of any office, department, or agency or the conduct of any officer or employee thereof administering the affairs of the unified government. In conducting inquiries and investigations, the commission shall have the right to administer oaths; subpoena witnesses, documents, records or other evidence; take testimony; and require the production of evidence. The conduct of proceedings at commission inquiries and investigations shall be subject to such rules and regulations as the commission may prescribe by general ordinance.
- (g) The commission shall provide for the form of oaths and the amount and condition of surety bonds as may be required of any officer or employee of the unified government.
- (h) The commission shall have and exercise such other powers as conferred upon it by this Charter and the laws of Georgia.

(Ord. of 7-2-96, § 1; ; Ord. of 7-6-99, § 1; Ord. of 7-5-2000, § 1; 2002 Ga. Laws, p. 4737, § 1)

#### Section 2-106. - Filling of vacancies.

- (a) In the event that the office of a member of the commission shall become vacant by reason of death, resignation or any other cause, and the term shall expire in less than one hundred eighty (180) days, the vacant position shall be filled by appointment of the remaining members of the commission. Any individual so appointed must have the same qualifications required for election to the office.
- (b) If the term of the vacant commission position will continue for more than one hundred eighty (180) days, a special election shall be held as provided in this Charter and in general state law to elect a new member of the commission to serve for the remainder of the term.

#### CHAPTER 2. - LEGISLATIVE PROCEDURE

#### Section 2-201. - Legislation by ordinance.

Every official act of the commission which is to have the force and effect of law shall be by ordinance and shall begin with the words: "The Commission of Athens-Clarke County, Georgia, hereby ordains." All other acts of the commission shall be by resolution or shall take such other form as prescribed by its rules.

Section 2-202. - Introduction, consideration and passage of ordinances and resolutions.

- (a) Every proposed ordinance and every amendment shall contain not more than one (1) subject which shall be expressed clearly in its title.
- (b) It shall be the duty of the attorney to draft all ordinances. Prior to the introduction of any ordinance, copies of it shall be prepared by the clerk of the commission and distributed to each member of the commission.
- (c) Every proposed ordinance shall be in writing and shall be introduced by reading the title thereof at a regular monthly, or a properly called special, meeting of the commission of Athens-Clarke County, at which time it may be acted upon.
- (d) The adoption of any ordinance shall require a vote of at least six (6) affirmative votes.
- (e) The passage of all ordinances shall be contingent upon the recording of the "ayes" and "nays" of each person voting, and the names of each person voting for and against each proposed ordinance or amendment, those abstaining, and those absent shall be entered upon the minutes of the proceedings of the commission.

(Ord. of 12-5-91 § 1)

Section 2-203. - Reserved.

#### **Editor's note—**

Section 2 of Ord. No. 91-10-100, adopted Dec. 5, 1991, deleted § 2-203 of the Charter in its entirety. Said section pertained to emergency ordinances and was derived from the Charter of the Unified Government adopted Aug. 7, 1990.

Section 2-204. - Submission of ordinances to mayor; effective date.

- (a) Every ordinance or resolution adopted by the commission shall be certified by the clerk of the commission and presented to the mayor within two (2) business days following its adoption.
- (b) The mayor shall approve or veto the ordinance or resolution within ten (10) business days after adoption, and no ordinance or resolution shall become effective without his or her approval except as provided herein.
- (c) If an ordinance or resolution is approved by the mayor, it shall become law upon the date of the mayor's approval. If the mayor vetoes an ordinance or resolution, he or she shall within two (2) business days following such veto return the ordinance or resolution to the clerk with a written statement of the reasons for the veto. The clerk shall then record the date of the receipt of the vetoed ordinance or resolution and thereupon shall notify the commission members of such veto. If the commission shall pass the ordinance or resolution by a vote of seven (7) of the ten (10) members at the meeting next held after the ordinance or resolution has been returned with the mayor's veto, it shall become law with or without his or her approval. In the event the mayor does not approve or veto the ordinance or resolution within the time required, it shall become law with or without his or her approval.

(Ord. of 12-5-91, § 3; Ord. of 7-2-96, § 1; Ord. of 7-6-99, § 1)

Section 2-205. - Authentication; recording.

The clerk of the commission shall authenticate by signature and record in full, in a properly indexed book kept for that purpose, all ordinances and resolutions adopted by the commission.

(Ord. of 12-5-91, § 4)

Section 2-206. - Codes of technical regulations.

- (a) The commission may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such adopting ordinance shall be prescribed for ordinances generally, except that:
  - (1) The requirements of subsection (b) of section 2-202 of this Charter for distribution of copies of the ordinance to each commission member shall be construed to include copies of the code of technical regulations which shall be maintained in the clerk's office, as well as the adopting ordinance; and
  - (2) A copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated by the clerk as provided in section 2-205 of this Charter.
- (b) Copies of any adopted code of technical regulations shall be made available by the clerk for public inspection and for purchase at a reasonable price as fixed by the commission.

(Ord. of 12-5-91, § 5)

Section 2-207. - Codification and printing of ordinances.

- (a) The commission shall, within two (2) years of the effective date of this Charter, provide for the preparation of a general codification of all ordinances of a general or permanent nature. Such code shall be adopted by the commission by ordinance and shall be published promptly in loose-leaf form, together with all amendments thereto, this Charter, any amendments hereto, and such codes of technical regulations and other rules and regulations as the commission may specify. This compilation shall be known and cited officially as the "Code of Athens-Clarke County, Georgia." As determined by the commission, copies of the Code shall be furnished to officers, departments and agencies of the unified government; placed in libraries and public offices for public reference; and made available for purchase by the public at a reasonable price.
- (b) Following publication of the first Code of Athens-Clarke County, Georgia, from time to time thereafter, the ordinances and Charter amendments shall be printed in substantially the same style as the Code then in effect and shall be suitable in form for integration therein.

Section 2-208. - Prima facie evidence.

A record or entry made by the clerk of commission of a copy of such record or entry, duly certified by the clerk of commission, shall be prima facie evidence of the terms of every ordinance and its due adoption.

(Ord. of 12-4-2001, § 2)

CHAPTER 3. - ETHICS AND PROHIBITED PRACTICES

Section 2-301. - Conflict of interest.

No elected official, appointed officer or employee of Athens-Clarke County, Georgia, or any agency or political entity to which this Charter applies shall knowingly:

- (1) Engage in any business or transaction in which the person has a financial interest which is incompatible with the proper discharge of official duties;
- (2) Disclose confidential information concerning the property, government or affairs of the governmental body by which such person is engaged or is a member of without proper legal authorization or use that information to advance the financial or other private interest of such person or others;

- (3) Accept any gift that has a value of \$100.00 or more from any person, firm or corporation which to his or her knowledge is interested, directly or indirectly, in business dealings with the governmental body he or she is a member of or by which such person is engaged; provided, however, that an elected official who is a candidate for public office may accept campaign contributions and services in connection with any campaign;
- (4) Represent private interests other than his or her own in any action or proceeding against Athens-Clarke County, Georgia, or any portion of its government; or
- (5) Vote or otherwise actively participate in the negotiation or the making of any contract between Athens-Clarke County, Georgia, and any business or entity in which he or she has a financial interest.

Section 2-302. - Disclosure.

Any elected official, appointed officer or employee of the unified government or of any board, commission, authority or agency thereof who shall have any private financial interest, direct or indirect, in any contract or matter pending before or within any department of the unified government shall disclose such private interest to the commission. Any commissioner who has a private interest in any matter pending before the commission shall disclose such private interest and such disclosure shall be entered on the records of the commission, and he or she shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer or employee of any board, commission, authority or agency of the unified government who shall have any private financial interest, direct or indirect, in any contract or matter pending before or within such entity shall disclose such private interest to the commission.

Section 2-303. - Testimony of public officials relating to public affairs.

Any officer or employee of the unified government or of any board, commission, authority or agency thereof who is duly and properly called as a witness before any unified government, state or federal judicial or administrative tribunal, and who shall before such tribunal fail to answer any proper question concerning the performance of his or her official duties shall be guilty of a violation of this Charter.

Section 2-304. - Contracts voidable and rescindable.

Any contract between the unified government or any board, commission, authority, agency or entity thereof made in violation of the provisions of this Charter shall be voidable or rescindable at the option of the commission at any time if any elected official, appointed officer or employee of such unified government or board, commission, authority or agency thereof has any interest in such contract and does not disclose such interest in accordance with section 2-302 of this Charter.

Section 2-305. - Hearings and determinations; penalties for violation.

- (a) Upon the sworn complaint of any person alleging facts which if true would constitute a violation of this Charter, the commission may conduct a public hearing at which the accused shall be given an opportunity to be heard, either personally or through counsel. At the conclusion of such hearing, the commission shall, in written findings of fact and conclusions based thereon, make a determination concerning the propriety of the conduct of the official or employee in question.
- (b) Any officer or employee of the unified government or of any board, commission, authority or agency thereof who is found to have knowingly concealed his or her personal financial interest, or who is found to have knowingly violated any of the requirements of this Charter, shall be deemed guilty of malfeasance in office or position. If such decision is upheld after all reviews and appeals provided by the merit system of the unified government have been exhausted, the officer or employee shall be subject to such punishment as may be deemed appropriate by the commission and which may include forfeiture of office or position.
- (c) Any officer or employee of the unified government or of any board, commission, authority or agency thereof who shall forfeit his or her office or position as described in subsection (b) above shall be

ineligible for appointment or election to or employment in a position in the unified government or of any board, commission, authority or agency thereof for a period of three (3) years thereafter.

(Ord. of 12-5-91, § 10)