

ELMS ID #37156

AN ORDINANCE BY

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AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF ATLANTA, GEORGIA, 1996 GA LAWS P. 4469, ET SEQ., ADOPTED UNDER AND BY VIRTUE OF THE AUTHORITY OF THE MUNICIPAL HOME RULE ACT OF 1965, O.C.G.A. SECTION 36-35-1 ET SEQ. AS AMENDED, BY AMENDING PART I (CHARTER AND RELATED LAWS), SUBPART A (CHARTER), ARTICLE 3 (EXECUTIVE), IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE CITY OF ATLANTA TEMPORARY TASK FORCE CHARGED WITH REVIEWING THE PROCESSES AND PROCEDURES OF THE OFFICE OF THE INSPECTOR GENERAL, (OIG), THE ETHICS OFFICE, AND THE GOVERNING BOARD OF THE OFFICE OF THE INSPECTOR GENERAL AND THE ETHICS OFFICE REGARDING THE AUTHORITY, OVERSIGHT AND THE CLARIFICATION OF RESPECTIVE ROLES AND RESPONSIBILITIES OF THE OIG, AND THE ETHICS OFFICE, AND TO CREATE SEPARATE GOVERNING BOARDS FOR THE OIG AND THE ETHICS OFFICE; AND FOR OTHER PURPOSES.

WHEREAS, in furtherance of its commitment to transparency, ethics and compliance, and to promote public trust in City of Atlanta government, on September 3, 2024 the Atlanta City Council adopted, and on September 10, 2024 the Mayor approved, Resolution 24-R-3983 to establish a task force to be comprised of members of the Atlanta City Council and lawyers in the City of Atlanta who are experienced in government ethics, compliance and transparency matters which was charged with an examination of the Charter provisions governing the Office of the Inspector General, (OIG) the Ethics Office, and the Governing Board of the Office of the Inspector General and the Ethics Office, (the Governing Board) and the City of Atlanta, and with making recommendations to the Mayor and the Atlanta City Council (“City Council”) concerning any updates needed thereto; and

WHEREAS, on October 21, 2024, the Atlanta City Council adopted Resolution 24-R-4304 which was approved by operation of law on October 30, 2024 and which extended the deadline by which the Task Force would be required to make its report to the Mayor and the Atlanta City Council, through November 8, 2024; and

WHEREAS, after extensive public hearings, a careful analysis of written and oral submissions, and independent interviews and research with other offices of Inspector General around the country, the Task Force compiled a list of proposed recommendations to clarify the roles and improve the procedures of the OIG, the Ethics Officer, and their Governing Board, while safeguarding the independence of these important offices; and

WHEREAS, on November 6, 2024 the Task Force conducted its final meeting during which it accepted and approved the recommendations drafted by the Task Force and voted to transmit them to the Atlanta City Council; and

WHEREAS, pursuant to 24-C-5148, the recommendations of the Task Force were received by the Atlanta City Council on December 6, 2024; and

WHEREAS, the report included recommendations by the task force concerning

- 1) Authority, oversight and the clarification of respective roles and responsibilities of the OIG, Ethics Office, and their Governing Board;
- 2) Employee rights and responsibilities;
- 3) Access to records and evidence;
- 4) Investigative procedures and Accountability, including procedures related to obtaining City-owned devices and handling personal devices; and

WHEREAS, the report also included a recommendation that the City of Atlanta create separate governing boards for the OIG and the Ethics Office, that the Inspector General and the Ethics Officer should report to their respective governing boards, and that the respective governing boards should adopt certain standard operating procedures to govern the functions and operations of their respective offices as shall be necessary to comply with their responsibilities under the Charter, including but not limited to their responsibilities as the appointing authorities of the Inspector General and the Ethics Officer; and

WHEREAS, it is the opinion of the Mayor and the Atlanta City Council that the implementation of the recommendations of the Task Force would be in the best interests of the City of Atlanta and its commitment to transparency, ethics and compliance, and its goal to promote public trust in the City of Atlanta government; and

WHEREAS, it is the desire of the Mayor and the Atlanta City Council, that the Charter of the City of Atlanta be amended in accordance with the recommendations of the Task Force.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:

SECTION 1: That Part I, (Charter and Related Laws), Subpart A, (Charter), Article 8, Sections 8-101 through 8-106 are hereby amended such that thereafter it shall read as follows (with permanent additions in underline font and permanent deletions in strikethrough font):

ARTICLE 8. - THE OFFICE OF THE INSPECTOR GENERAL ~~AND THE ETHICS OFFICE~~

Section 8-101. The Office of the Inspector General ~~and the Ethics Office~~.

(a) *Establishment.* There is hereby established the Office of the Inspector General of the City of Atlanta ~~and the Ethics Office. The Office of the Inspector General and the Ethics Office shall operate independently of each other.~~ The Office of the Inspector General shall consist of the following divisions:

(1) The Inspector General / Compliance Division; and

- (2) The Independent Procurement Review Division.
- (b) *Purposes.* The purposes of this Article shall be to provide for an orderly and fair process for ~~raising and addressing ethical questions; for disciplining those officials and employees and other persons who violate the Standards of Conduct set forth in Chapter 2, Article VII, Division 2 of the City of Atlanta Code of Ordinances;~~ to reasonably ensure that the city, and its officials and employees are complying with all applicable laws, rules and regulations, and internal policies and procedures; and to provide and enforce standards of practice related to the performance and financial operations of the city; and for investigating allegations of waste, fraud, and abuse, and corruption (illegal acts).
- (c) The Office of the Inspector General shall be led by the Inspector General of the City of Atlanta who shall be responsible for the coordination of the efforts of the divisions of the Office of the Inspector General. ~~The City of Atlanta Ethics Office shall be led by the Ethics Officer who shall be responsible for the administration and direction of the affairs and operations of the City of Atlanta Ethics Office.~~
- (d) *Funding.*
 - (1) The Atlanta City Council shall provide funds necessary for the facilities, equipment, and staffing of the Office of the Inspector General ~~and the Ethics Office~~ to carry out the responsibilities specified herein and by ordinance.
 - (2) Funding provided by the Atlanta City Council for the Office of the Inspector General, ~~and the Ethics Office~~ made pursuant to this section, shall include specific funding for each division of the Office of the Inspector General, which shall include specific funding for the Inspector General / Compliance Division and for the Independent Procurement Review Division; ~~and shall include specific funding for the Ethics Office.~~
 - (3) For appropriations to each division within the Office of the Inspector General, the Inspector General of the City of Atlanta ~~respective director of each division~~ shall, within the context of authority over the funds appropriated to the center designated for the division, have authority to draw against and transfer among accounts with such center in conformity with the City of Atlanta Code of Ordinances and administrative provisions, with the exception of salaries and benefits accounts. During any fiscal year appropriations for salaries and benefits shall only be expended as compensation and benefits for employees of the respective divisions within the Office of the Inspector General and are restricted from transfer to any other account. All other expenditures within the center shall be charged against the appropriate expense account in the city's chart of accounts.
- (e) *Access to records and property; rights and responsibilities ~~duty to cooperate~~.*
 - (1) Except where confidential and/or privileged as recognized by state law, all city officials and employees shall allow the Office of the Inspector General ~~and the Ethics Office~~ immediate access pursuant to this subsection, to any and all public

records and property in the custody of the City of Atlanta, including but not limited to books, records, documents, and automated data. All city officials and employees shall also allow the Office of the Inspector General ~~and the Ethics Office immediate access pursuant to this subsection~~ to personnel, processes (including meetings) and other requested public information, pertaining to the business of the city and within the custody of the City of Atlanta regarding powers, duties, activities, organization, property, financial transactions, contracts, and methods of business, which have been determined by the Office of the Inspector General ~~or the Ethics Office~~ to be required to conduct an investigation, ~~audit or other official duties~~. In addition, except where confidential and/or privileged as recognized by state law, such officials and employees shall provide access for the Inspector General, ~~pursuant to an investigation, or the Ethics Office~~ to inspect all property, equipment, and facilities within their custody. ~~The provision of public records in the custody of the City of Atlanta pursuant to this section shall be done pursuant to applicable City of Atlanta internal processes and procedures without undue delay. The provision of property in the custody of the City of Atlanta pursuant to this section shall be pursuant to the following:~~

- a. The Office of the Inspector General should first request that the employee or city contractor in possession of the property sought voluntarily surrender the property. This request should be in writing, detailing the reason for the investigation and specifying the property needed. This request shall include citation to any relevant laws, regulations, or policies that give the Office of the Inspector General the authority to seize or review the City-owned property as part of the investigation. This includes ensuring that the Office of the Inspector General have the jurisdiction to access such property and any related data under contracts or employee agreements.
- b. Should there be a refusal to voluntarily surrender the property, the Office of the Inspector General may proceed with the issuance of a subpoena for such property in accordance with the requirements of this section.
- c. Upon the seizure of City property, the Office of the Inspector General shall maintain a clear chain of custody for all seized property, documenting the time, date, and person who handled the property at each stage to maintain the integrity of the evidence.
- d. If necessary, the Office of the Inspector General pursuant to an investigation, shall engage the Department of Atlanta Information Management or digital forensic experts to properly extract data from devices to preserve the integrity of the evidence without tampering.

The provision of personal property in the custody of City of Atlanta officials and/or employees can only be sought if there is a clear, legitimate reason to

believe that they contain evidence relevant to an investigation such as where public records are stored on personal electronic devices. The access to personal property shall only be obtained pursuant to the following procedures:

- a. The Office of the Inspector General should first request that the employee or city contractor in possession of the personal property sought voluntarily surrender the personal property or the relevant information contained therein. This request should be in writing detailing the reason for the investigation and specifying the personal property needed and the nature of the information such as emails, text messages, or files sought. This request shall include citation to any relevant laws, regulations, or policies that give the Office of the Inspector General the authority to seize or review the personally owned devices as part of the investigation.
- b. Should there be a refusal to voluntarily surrender the personal property, the Office of the Inspector General may proceed with the issuance of a subpoena for such personal property in accordance with the requirements of this section.
- c. Upon the seizure of personal property, the Office of the Inspector General shall maintain a clear chain of custody for all seized property, documenting the time, date, and person who handled the property at each stage to maintain the integrity of the evidence.
- d. If necessary, the Office of the Inspector General shall engage the Department of Atlanta Information Management or digital forensic experts to properly extract data from devices to preserve the integrity of the evidence without tampering.
- e. Efforts should be made to copy or mirror any personal property, computer, cell phones or other electronic devices, such that the inconvenience to the owner of the personal property is minimized.

(2) In the event any city official or employee shall fail to allow access to any requested public records and property in the custody of the City of Atlanta as required in this section, the Inspector General ~~and the Ethics Officer~~ shall have the power to compel the production of said public records or property in the custody of the City of Atlanta ~~information~~ by subpoena. The Municipal Court of Atlanta, upon written motion made promptly and in any event before the time specified in the subpoena for compliance therewith may either:

- a. quash or modify the subpoena if it is unreasonable or oppressive; or
- b. condition denial of the motion upon the advancement by the Inspector General of the reasonable cost of producing the evidence.

c. uphold the validity of the subpoena and compel release or access to the property.

If any person duly subpoenaed shall fail to allow access to said public records and property, the Inspector General ~~or the Ethics Officer~~ shall report such failure to the Municipal Court of Atlanta ~~any court of record~~ or judge thereof ~~in accordance with applicable law~~, who may make such order as shall be proper for the production of any such documents and things, or the person may be cited and punished for contempt by the Municipal Court. ~~The Inspector General or the Ethics Officer may, after due notice and opportunity to be heard pursuant to this Article, punish them for failure to comply therewith.~~

(3) All contracts with outside contractors, vendors and agencies shall include an inspections clause to provide access for the Office of the Inspector General ~~or the Ethics Officer's access~~ to all records, and those of their subcontractors, needed to verify compliance with the terms specified in the contract. No member of the Office of the Inspector General ~~or the Ethics Officer~~ shall participate in any activity, decision or meeting that would impair independence.

(4) In addition to as specifically provided in this section, in furtherance of an investigation initiated pursuant to this Article, the Inspector General ~~or the Ethics Officer~~ may issue subpoenas to compel the production of documents and things including for books, records, documents, papers, automated data, and other written instruments. Subpoenas issued to third parties in possession of financial data, medical information, or telecommunications activity information, must be approved by a judge of the Municipal Court of Atlanta prior to issuance. Additionally, upon issuance, the person or entity whose information is sought from the third-party must be given a copy of the subpoena simultaneously with its issuance to give the third party an opportunity to contest the validity of the subpoena pursuant to a motion to quash before the disclosure of the records to the Office of the Inspector General. The Municipal Court of Atlanta, upon written motion made promptly and in any event before the time specified in the subpoena for compliance therewith may either:

- a. quash or modify the subpoena if it is unreasonable or oppressive; or
- b. condition denial of the motion upon the advancement by the Inspector General of the reasonable cost of producing the evidence.
- c. uphold the validity of the subpoena and compel release or access to the requested records.

If any person duly subpoenaed shall fail to allow access to said records and property, the Inspector General shall report such failure to the Municipal Court of Atlanta ~~any court of record~~ or judge thereof, who may make such order as shall be

proper for the production of any such documents and things, or the person may be cited and punished for contempt by the Municipal Court.

~~If any person duly subpoenaed shall fail or refuse to produce such documents and things, the Inspector General or the Ethics Officer shall report the failure or refusal to produce the documents and/or things to any court of record or judge thereof in accordance with applicable law, who may make such order as shall be proper for the production of any such documents and things. The Inspector General or the Ethics Officer may, after due notice and opportunity to be heard pursuant to this Article, punish them for failure to comply therewith.~~

- (5) Records and property subject to disclosure under this section which state law recognizes as confidential and/or privileged shall be exempt from disclosure to ~~the Office of the Inspector General or the Ethics Office~~ or subpoena issued under this section.
- (6) ~~Neither the The~~ ~~Office of the Inspector General or the Ethics Office~~ shall not publicly disclose any information received during an investigation that is considered confidential by any local, state, or federal law or regulation.
- (7) Rights and responsibilities.
 - a. The Office of the Inspector General shall inform the subjects of the investigation prior to the time of their interview, if any, and subjects of an investigation shall have the right to have representation of their choice from a union or an attorney during any interviews by the Office of the Inspector General. If the subject desires an attorney, the city attorney may select and appoint an outside counsel to represent the subject.
 - b. Employees should be fully informed of their rights and responsibilities when interacting with the Office of the Inspector General and be provided a clear written notice thereof prior to any interview. Employees should be informed of their duty to cooperate with the investigation and that any statements provided during an interview shall be considered compelled and that they therefore shall be entitled to protections from use in subsequent criminal prosecutions as outlined in *Garrity v. New Jersey*, 385 U. S. 493, 87 S.Ct. 616, 17 L.Ed.2d 562 (1967).
 - c. Employee interviews shall only be conducted during an employee's assigned working hours and shall only be conducted in City facilities unless a different time or location, including but not limited to the home of the employee, is mutually agreed upon by the employee and the Office of the Inspector General.

~~Motions to quash subpoenas issued in accordance with this Article shall be heard and decided by the Governing Board of the Office of the Inspector General and~~

~~the Ethics Office in accordance with the hearing procedures set forth in this Article.~~

- (8) In addition to the obligations described in this subsection, it shall be the duty of every city official or employees, and officials and employees of city outside contractors, vendors and agencies to cooperate with the Office of the Inspector General ~~or the Ethics Office~~ regarding any investigation ~~or review~~ initiated pursuant to this Article by answering questions and/or make sworn statements concerning an investigation ~~or review~~ initiated pursuant to this Article when directed to do so by a duly appointed representative of the Office of the Inspector General ~~or the Ethics Office~~. Officials and employees will provide all relevant information and answer all questions honestly, completely, and to the best of their ability. An official or employee's refusal to cooperate and provide sworn statements, answers, as required by this subsection shall be considered a violation in accordance with subsection (i) of this section.
- (f) *Initiating Investigations.* The Office of the Inspector General and the Ethics Office shall have the authority to conduct investigations under the jurisdiction of this Article:
 - (1) Upon a sworn written complaint by any person in a form prescribed by the Office of the Inspector General or the Ethics Office;
 - (2) Upon internal determination, supported by reasonable articulable suspicion, that any matter concerning waste, fraud, abuse, or corruption should be investigated or reviewed;
 - (3) Upon request via Resolution by the Atlanta City Council;
 - (4) Upon request by the Mayor of the City of Atlanta via administrative order;
 - (5) Upon request of the Chief Transparency Officer; or
 - (6) Upon the determination by the City Auditor of the presence of indications of fraud, or abuse or illegal acts are present as a result of an audit conducted in accordance with Section 2-603 of the City of Atlanta Charter.
- (g) *Coordination of Investigations.* If, at the initiation of, or during the course of, any investigation conducted by the Compliance Division, the Independent Procurement Review Division, or otherwise under the oversight of the Inspector General pursuant to this section, the Inspector General shall determine there to be a need for the conduct of an audit by the City Auditor in furtherance of the investigation, the Inspector General shall be authorized to request that the City Auditor initiate and conduct such an audit in accordance with the authority of the City Auditor in accordance with Section 2-608 of the Charter.
- (h) *Issuance of Final Decisions/Reports.* At the conclusion of any investigation conducted under the jurisdiction of the Office of the Inspector General or the Ethics Office, the Inspector General or the Ethics Officer shall issue a final decision and report.

(1) *Requirements of decision.* As part of the final decision, the report shall include findings of fact and any law on which the decision is based, separately stated, and the effective date of the decision or order. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Copies of the decision or order shall be mailed to all parties of record by the Office of the Inspector General or the Ethics Office.

(2) *Finality of decision.* The decision shall be binding, subject to appeal to the Governing Board of the Office of the Inspector General and the Ethics Office as provided in this Article. Except as otherwise provided in this Article, only decisions issued at the conclusion of an investigation conducted in accordance with this section shall be subject to appeal to the Governing Board of the Office of the Inspector General and the Ethics Office.

(I) *Violations.*

(1) Any intentional violation of a matter under the jurisdiction of the Office of the Inspector General or the Ethics Office, or the Intentionally furnishing of false or misleading information to the Office of the Inspector General or the Ethics Office, or the failure to follow a written ethics opinion rendered by the Ethics Officer, or the failure to comply with a subpoena issued by the Inspector General or the Ethics Officer pursuant to this Article shall subject the violator to any one or more of the following:

- a. Administrative sanction of not more than \$1,000.00 assessed by the Office of the Inspector General or the Ethics Office;
- b. Public reprimand by the Office of the Inspector General or the Ethics Office; and
- c. Prosecution by the city solicitor in municipal court for a violation of this section, and, upon conviction, to a fine of up to \$1,000.00 per violation and up to six months imprisonment in accordance with section 1-8, whether the official or employee is elected or appointed, paid or unpaid. Nothing in this section shall be interpreted to conflict with state law. An action for violation under this subsection shall be commenced within two years after the violation in accordance with section 1-9. of this Article or the furnishing of false or misleading information or the failure to comply with a subpoena issued in accordance with this Article must be brought within two years after the violation occurs is discovered.

(2) With regard to violations by City of Atlanta employees, in addition to the remedies articulated in this subsection herein, the Office of the Inspector General or the Ethics Office may recommend any one or more of the disciplinary actions set forth in section 114-502. Where such employees are not subject to the

jurisdiction of the Compliance Division of the Office of the Inspector General as set forth in this Article, such recommendations shall be furnished to the appointing authority of the subject employee.

(3) With regard to violations by persons other than officials or employees, in addition to the remedies in this section, the Office of the Inspector General ~~or the Ethics Office~~ may recommend to the Chief Procurement Officer any one or more of the following:

- a. Suspension of a contractor; and
- b. Disqualification or debarment from contracting or subcontracting with the city.

(4) ~~The value of any gratuity transferred from the City of Atlanta General Fund or received from the General Fund in breach of the provisions of this Article, the City of Atlanta Code of Ordinances, state law, or federal law, may be recovered from either the receiving official or employee or the person or entity providing the gratuity, for deposit in the City of Atlanta General Fund.~~

(j) ~~Reporting violations. Any person who witnesses or becomes aware of a violation of this division may complain of that violation as follows:~~

(1) ~~By communicating with the Inspector General or the Ethics Officer. Where a complaint is communicated anonymously, such complaint shall be made in good faith, and with veracity and sufficient specificity so as to provide salient and investigable facts. The Office of the Inspector General or the Ethics Office may require the anonymous complaint to be made in a manner and form that is intended only to obtain relevant facts related to the alleged violation under the jurisdiction of the Office of the Inspector General or the Ethics Office, and that is not designed to reveal the identity of the complainant. All written complaints shall contain the following if applicable:~~

- a. ~~The name and address of the person or persons who file the complaint.~~
- b. ~~The sworn verification and signature of the complainant.~~
- c. ~~The name and address of the party or parties against whom the complaint is filed, and if such party is a candidate and the office being sought.~~
- d. ~~A clear and concise statement of acts upon which the complaint is based along with an allegation that such facts constitute one or more violations of law under the jurisdiction of the Office of the Inspector General or the Ethics Office.~~
- e. ~~A general reference to the statutory provision(s) of the code within the jurisdiction of the Office of the Inspector General or the Ethics Office, allegedly having been violated.~~

f. ~~Any further information which might support the allegations in the complaint including, but not limited to, the following:~~

1. ~~The name and address of all other persons who have firsthand knowledge of the facts alleged in the complaint; and~~
2. ~~Any documentary evidence that supports the facts alleged in the complaint.~~

(2) ~~Defective complaint. Upon receipt of a written, non anonymous complaint which does not conform to the applicable requirements of this section, the Office of the Inspector General or the Ethics Office shall by letter acknowledge receipt of the complaint and advise complainant of the defect in the complaint and that the complaint may not be considered unless the defect is corrected.~~

(kg) *Protection for reporting of violations.* Officials and employees are encouraged to report suspected misconduct ~~or ethical violations~~ to the Office of the Inspector General ~~and the Ethics Office, respectively.~~ No official or employee shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the Office of the Inspector General ~~or the Ethics Office,~~ information relating to a violation or investigation under this Article. No official or employee shall use or threaten to use any official authority or influence in order to effect affect any action as a reprisal against an official or employee who reports, initiates a complaint, or otherwise brings to the attention of the Office of the Inspector General ~~or the Ethics Office,~~ information relating to a violation or investigation under this Article.

- (1) A city official or employee, or officials or employees of city outside contractors, vendors and agencies, who believes that they have been subject to action in violation of this subsection may report an allegation of such action to the Office of the Inspector General, which shall conduct an investigation into such an allegation.
- (2) Within 30 days of its receipt of an allegation made in accordance with this subsection, the Office of the Inspector General shall provide written notice to the individual having made such an allegation, that the allegation has been received by the Office of the Inspector General and the name of the individual in the Office of the Inspector General who shall serve as the point of contact with the individual having made the allegation.
- (3) At the conclusion of an investigation conducted pursuant to this subsection, the Office of the Inspector General shall issue a final decision and report in accordance with ~~subsection (h) of~~ this section. Violations of this subsection shall be subject to action provided in this section ~~subsection (i)~~ in addition to any remedies available under federal or state law.

(th) Upon request of the Governing Board for the Office of Inspector General, ~~or the Ethics Officer, the The city attorney, or any attorney representing the city attorney's office, shall provide legal counsel to advise the Governing Board of the~~ Office of the Inspector General ~~or the Ethics Office, respectively. Any attorney(s) assigned to provide legal counsel to the Office of the Inspector General shall be subject to internal measures adopted by the Department of Law to ensure confidentiality of information gained while~~ advising the Office of the Inspector General and that there shall be no conflicts under ~~Upon a finding by the Governing Board of the Office of the Inspector General and the Ethics Office of a conflict under Rule 1.7 of the Georgia Rules of Professional Conduct by the city attorney regarding a matter, any attorney who shall be selected by a majority of the Governing Board shall advise the Office of the Inspector General or the Ethics Office on the matter which the Governing Board found the city attorney to be in conflict.~~

(mi) *City political activities, prohibited.*

- (1) The Inspector General ~~and Ethics Officer~~ shall not engage in city electoral political activities and may not make campaign contributions to candidates in city elections during their terms. A violation of this subsection shall constitute cause for removal of as described in this Article.
- (2) No employee of the Office of the Inspector General ~~or the Ethics Office~~ shall perform work, either in a paid or unpaid capacity, for any candidate for City elected office.

Section 8-102. Governing Board of the Office of the Inspector General ~~and the Ethics Office.~~

- (a) To ensure the independence of the Office of the Inspector General ~~and of the Ethics Office~~, the Governing Board of the Office of the Inspector General ~~and the Ethics Office~~ is hereby established.
- (b) The Governing Board of the Office of the Inspector General ~~and the Ethics Office~~ shall have the powers and duties as provided in this Article.
- (c) The position of a member of the Governing Board of the Office of the Inspector General ~~and the Ethics Office~~ shall be deemed vacated:
 - (1) Upon the expiration of his or her term, except that any member of the Governing Board serving an expired term may continue to serve until they are re-appointed or until a successor is appointed;
 - (2) Upon the death of a member or the disability or incapacity of a member for more than 90 days;
 - (3) Upon the written resignation of the member, tendered to the Board;
 - (4) Upon removal of the member for good cause by a majority vote of the Board;

- (d) Members shall be prohibited from engaging in city electoral political activities and from making campaign contributions to candidates in city elections during their terms as Board members. Violations of this subsection may be punished by removal from Board membership by a majority vote of the members.
- (e) Unless otherwise specified, the Governing Board of the Office of the Inspector General ~~and the Ethics Office shall:~~
 - (1) Elect a chair, who must be an attorney and who must have no less than five years of investigative experience, by majority vote of the serving members. Each chair will serve a one-year term and shall be eligible to serve as chair in successive years.
 - (2) Elect a vice-chair to preside in the absence of the chair. The vice-chair will serve a one-year term and shall be eligible to serve as vice-chair in successive years.
 - (3) The Governing Board of the Office of the Inspector General ~~and the Ethics Office~~ shall elect a secretary to provide administrative assistance to the Board.
 - (4) Hold regular meetings at City Hall. Such meetings shall be televised. All meetings of the Board shall be conducted as required by the Georgia Open Meetings Act.
 - (5) Conduct its business only with a quorum. A majority of the members of the Governing Board, shall constitute a quorum. The affirmative vote of a majority of the members shall be required for the transaction of business, except as otherwise provided by this Article. In no event shall a decision of the Board be voted upon by fewer than 6 members.
 - (6) The Governing Board of the Office of the Inspector General ~~and the Ethics Office~~ shall be free to contract for the services of a competent court reporter to take down statements, testimony and discussions at its meeting or to use in lieu thereof a competent person adept at shorthand reporting and/or mechanical transcribing devices, whichever method is from time to time desired by the Board, such services to be paid for by the city.
- (f) The city shall pay all administrative costs, including those specifically stipulated in this Article, pertaining to the operation of the Board.
- (g) No member of the Board present at a meeting of a quorum of the Governing Board of the Office of the Inspector General ~~and the Ethics Office~~ shall abstain from voting for any reason other than a publicly disclosed conflict of interest.
- (h) The Governing Board of the Office of the Inspector General ~~and the Ethics Office~~ may establish its own bylaws. Except as otherwise provided in this Article, or as set forth in duly adopted bylaws, the meetings of the Governing Board of the Office of the Inspector General ~~and the Ethics Office~~ shall be governed by Robert's Rules of Order.

Section 8-103. Functions of the Governing Board of the Office of the Inspector General and the Ethics Office; appeal hearings.

In addition to the functions described in this Article, the Governing Board of the Office of the Inspector General ~~and the Ethics Office~~ shall:

- (a) Hear all appeals that may be filed from any adverse decision or report issued by the Office of the Inspector General ~~or the Ethics Office, or a motion to quash a subpoena issued by the Inspector General or the Ethics Officer~~, pursuant to this Article. Appeals ~~and motions to quash~~ must be filed within 14 days of receipt of the adverse decision ~~or the subpoena~~. In no way shall the ability to appeal an adverse decision of the Office of the Inspector General ~~or the Ethics Office~~ issued pursuant to this Article constitute the establishment of a property interest in any employee's employment with the City. Any such property interest shall only be established pursuant to Chapter 114.
- (b) *Subpoena; authority of Governing Board of the Office of the Inspector General and the Ethics Office.*
 - (1) *Issuance, contents, service.* Whenever the attendance of any witness may be required before the Governing Board of the Office of the Inspector General ~~or the Ethics Office~~ to establish any fact in connection with any hearing which may be lawfully conducted by the Governing Board, the Governing Board is authorized to, by majority vote, issue a subpoena, directed to the witness, requiring the witness to personally be and appear at the time and place of the hearing conducted by the Board and to produce at that time and place any documentary evidence which, in the judgment of the Board, may be required. Such witness shall remain in attendance ~~upon~~ at the hearing until excused therefrom. The subpoena shall be issued in the name of the city; shall be signed by the presiding member of the Board. Service of a hearing subpoena issued by the Board in accordance with this subsection shall be ~~had issued~~ at least 24 hours before the time such witness is required to attend and ~~to~~ shall continue in effect until the attendance of the witness.
 - (2) *Penalty for violation.* If any person so summoned as set out in part (1) of subsection (b) of this section as a witness shall fail, neglect or refuse to attend the hearing or shall fail, neglect or refuse to produce any relevant documentary evidence or shall fail or refuse to take and subscribe to the required oath or affirmation or shall fail to answer any question lawfully propounded or shall fail to continue in attendance until excused by the Board, the person shall be cited to appear before the municipal court and, upon conviction, to punishment as provided in section 1-8. a fine of up to \$1,000.00 per violation and up to six months imprisonment.
- (c) During all hearings before the Board, formal legal rules of evidence shall not be strictly applied. Evidence may be admitted if it is of a type commonly relied upon by reasonably

prudent persons in the conduct of their affairs. The Board shall follow the Georgia rules of evidence regarding privileges.

- (d) Any decisions of the Governing Board of the Office of the Inspector General ~~and the Ethics Office~~ on an appeal ~~or a motion to quash~~ filed in accordance with this section shall be either to affirm or overturn the decision of the Office of the Inspector General ~~or the Ethics Office~~, ~~or either to quash or uphold the subpoena issued by the Inspector General or the Ethics Officer~~; and shall be issued in writing by the member of the Board presiding over the hearing, shall be issued in writing within 15 days from the close of the evidence. The Board shall use "the preponderance of the evidence" as the standard of proof for all decisions. The decision shall be transmitted to the parties or their representatives. The Board's decision shall be final, and there shall be no right to any additional administrative appeals.
- (e) Final decisions of the Board against a party subject to an investigation may be appealed via a petition for review pursuant to the Superior and State Court Appellate Practice Act at OCGA Sec. 5-3-1, et seq.—via Certiorari to the Superior Court of Fulton County.

Section 8-104. The Governing Board of the Office of the Inspector General ~~and the Ethics Office~~; appointments; terms.

- (a) The Governing Board of the Office of the Inspector General ~~and the Ethics Office~~ shall consist of seven nine members, all of whom shall be known for their personal integrity. Nominees shall either be residents of the city, shall be employed within the city, or shall maintain business interests within the city. It is further urged that the members of the Board shall reflect the diversity of the city with regard to race, color, creed, religion, gender, marital status, parental status, familial status, sexual orientation, national origin, gender identity, age and disability to the extent possible. At all times, at least three members shall be attorneys licensed to practice law in the State of Georgia or an inspector general or an equivalent position within a corporation.
- (b) Appointments to the Board shall be made by the mayor and shall be confirmed by the city council, the governing authority of the City of Atlanta. The mayor shall receive recommendations for appointment to the Board provided by Nominations may be made by the following organizations:
 - (1) The Atlanta Bar Association may recommend nominate one member, chosen from the attorney members of the association;
 - (2) The Gate City Bar Association may recommend nominate one member, chosen from the attorney members of the association;
 - (3) The Atlanta Business League may recommend nominate one member, chosen from the organizations that are members of the league, which member shall not be an attorney;

- (4) The Metro Atlanta Chamber of Commerce may recommend nominate one member from the organizations that are members of the chamber, ~~which member shall not be an attorney~~;
- (5) ~~The Atlanta Fulton County League of Women Voters may nominate one member, which member shall not be an attorney;~~
- (6) The Atlanta Planning Advisory Board may recommend nominate one member, which member shall not be ~~an attorney nor~~ an officer of a neighborhood planning unit;
- (7) ~~The seven major universities/colleges within the city (Georgia State University, Georgia Institute of Technology, Clark Atlanta University, Emory University, Morehouse College, Morris Brown College, and Spelman College) may collectively nominate one member, collective action as required herein shall be effectuated via approval by no fewer than four of these seven major universities/colleges;~~
- (8) The Association of Certified Fraud Examiners may recommend nominate one member, chosen from the members of the association;
- (9) The Georgia Society of Certified Public Accountants may recommend nominate one member, chosen from the members of the society, ~~which member shall not be an attorney~~.

- (c) The members shall each serve for terms of three years. The members shall elect a chairperson, who shall be an attorney with no less than five years of investigative experience, from among the members, yearly.
- (d) Appointees shall be subject to an education and employment background check, a criminal history check, ~~and a check for past violations under the jurisdiction of the Office of the Inspector General or the Ethics Office~~. Appointees shall execute all forms and releases necessary for the department of personnel and human resources and the department of police to accomplish the same. If the appointee is determined to have committed a felony, the proposed appointment nomination shall be withdrawn.

Section 8-105. Inspector General of the City of Atlanta.

- (a) *Appointment; term; removal.* There shall be an Inspector General of the City of Atlanta who shall be appointed for a term of five years by a vote of two-thirds of the members of the Governing Board of the Office of the Inspector General ~~and the Ethics Office~~, subject to confirmation by a majority of the council and approval by the mayor. The removal of the Inspector General before the expiration of the designated term shall be for cause by a vote of two-thirds of the members of the Governing Board.
- (b) *Qualifications.* The Inspector General of the City of Atlanta shall, within eighteen months of the approval of their appointment, be an active member of the State Bar of Georgia in

good standing and shall have at least ten years of experience in the active practice of law and at least five years of investigatory experience.

- (c) In addition to leading the Office of the Inspector General, the Inspector General of the City of Atlanta shall:
 - (1) Serve as the director of the ~~Inspector General~~/Compliance Division of the Office of the Inspector General; and shall, in accordance with this Article, be responsible for the administration and direction of the affairs and operations of the ~~Inspector General~~/Compliance Division, and shall exercise general management and control thereof; and
 - (2) Serve as the director of the Independent Procurement Review Division of the Office of the Inspector General; and shall, in accordance with this Article, be responsible for the administration and direction of the affairs and operations of the Independent Procurement Review Division, and shall exercise general management and control thereof; and
 - (3) Be responsible for maintaining records of the Office of the Inspector General.
- (d) The Inspector General of the City of Atlanta, as the head of the Office of the Inspector General, shall:
 - (1) Be deemed to be the appointing authority within the context of Chapter 114 of the City of Atlanta Code of Ordinances, regarding actions concerning any of the deputies, assistants, employees and personnel assigned to the ~~Inspector General~~/Compliance Division; and
 - (2) Be deemed to be the appointing authority within the context of Chapter 114 of the City of Atlanta Code of Ordinances, regarding actions concerning any of the deputies, assistance, employees and personnel assigned to the Independent Procurement Review Division.
- (e) Pursuant to Chapter 114 of the City of Atlanta Code of Ordinances and within the budget approval process and established personnel policies for all departments, neither the members of the council, the president of the council, nor the mayor shall in any manner attempt to influence or dictate the appointment or removal of any such official or employee whom the Inspector General is empowered to appoint.
- (f) The Inspector General and any deputies, assistants, employees and personnel of the Office of the Inspector General shall be members of the unclassified service of the City and shall not engage in the private practice of law.
- (g) The Inspector General shall report to be responsible to the Governing Board of the Office of the Inspector General; and notwithstanding any provision of this Article to the contrary, the Governing Board shall act as the appointing authority within the context of Chapter 114 of the City of Atlanta Code of Ordinances regarding actions concerning the Inspector General, and the Ethics Office.

(h) *Reporting Responsibilities.* The Inspector General's responsibilities to the Governing Board shall include but shall not be limited to the following:

- (1) Providing the Governing Board with written copies of the policies and procedures of the Office of the Inspector General, including but not limited to investigative policies and procedures for approval of the same.
- (2) Issuing quarterly public reports to the Governing Board to ensure transparency and accountability. These quarterly reports shall be considered public records and should include summaries of investigations, recommendations for corrective actions, outcomes (without disclosing sensitive or confidential information), and any difficulties or problems that the Office of the Inspector General may have encountered.
- (3) Submitting the Office of the Inspector General to peer reviews to be conducted by professionals from similar agencies and coordinated by the Governing Board no fewer than once every four years in order to assess the quality, fairness, and adherence to professional standards of the work of the Office of the Inspector General.
- (4) Providing written updates concerning the status of ongoing investigations to the Governing Board. During the pendency of any investigation, these written updates shall be considered a part of the investigative file and therefore exempt from production under the Georgia Open Records Act pursuant to OCGA Section 50-18-72(a)(4), (8). Discussion by the Governing Board concerning such written updates may be held in executive session in accordance with the Georgia Open Meetings Act pursuant to OCGA Section 50-14-3(b)(4).
- (5) Providing an annual report, after approval by the Governing Board, to the mayor and the city council each January of the area(s) of greatest concern on which the Inspector General proposes to conduct training during the upcoming calendar year.

Section 8-106. Compliance Division of the Office of the Inspector General.

(a) *Jurisdiction.* Subject to the requirements concerning the initiation and conduct of investigations contained in this Article, the Inspector General, as the director of the Compliance Division, shall have the non-exclusive jurisdiction to investigate and take appropriate action regarding:

- (1) The performance and financial operation of all departments, offices, boards, activities and agencies of the city as referred by the City Auditor upon determination that perceived deficiencies discovered during the City Auditor's official duties indicate the presence of waste, fraud, and or abuse;

- (2) Matters under the purview of Independent Procurement Review Division upon determination by the Inspector General that perceived deficiencies discovered during such review indicate the presence of waste, fraud or abuse;
- (3) Complaints regarding allegations of waste, fraud, or abuse by departments, offices, boards, activities and agencies of the city which the Inspector General determines independently to be appropriately supported by reasonable articulable suspicion, or properly referred, as outlined in this Article section; and
- (4) Complaints regarding allegations of abuse of authority in the exercise of official duties or while acting under color of office, substantial misconduct, (such as gross mismanagement, gross waste of funds, or a substantial violation of law, ordinance, or regulation), or conduct that undermines the independence or integrity reasonably expected of an official or employee of violations of Chapter 2, Article X; of Chapter 3; or Chapter 114 of the City Code of Ordinances against the following classes of officials and employees:
 - a. Elected officials;
 - b. Employees appointed or hired directly by an elected official;
 - c. Members of any city boards, authorities, commissions, etc. having city representation, whether created or appointed to by the city, and any employees thereof; and
 - d. Hearing officers.

The jurisdiction of the Compliance Division shall not include any allegations of violations of the City Code of Ethics/Standards of Conduct. Any complaints alleging such violations shall be referred to the Ethics Officer.

(b) Pursuant to the requirements of this Article, the Compliance Division of the Office of the Inspector General shall have the authority to initiate and conduct investigations in accordance with clear Investigation Protocols to be developed by the Inspector General and approved by the Governing Board of the Office of the Inspector General. These protocols shall ensure that all investigations follow a consistent process, which includes defining the scope, objectives, and timeline of the investigation. Investigations may be initiated:

- (1) Upon a sworn written complaint by any person in a form prescribed by the Office of the Inspector General, and which can be supported by the Office of the Inspector General through a showing of reasonable articulable suspicion;
- (2) Upon internal determination by the Office of the Inspector General, supported by reasonable articulable suspicion, that a matter under the jurisdiction of the Office of the Compliance Division set forth in this Article has occurred or is occurring;
- (3) Upon request via Resolution by the Atlanta City Council;

- (4) Upon request by the Mayor of the City of Atlanta via administrative order;
- (5) Upon request of the Chief Transparency Officer;
- (6) Upon the determination by the City Auditor of the presence of indications of fraud, or abuse are present as a result of an audit conducted in accordance with Section 2-603 of the City of Atlanta Charter; or-
- (7) Upon receipt of an anonymous or non-sworn written complaint. Where a complaint is communicated anonymously, such complaint shall be made in good faith, and with veracity and sufficient specificity so as to provide salient and investigable facts which can be supported by the Office of the Inspector General through a showing of reasonable articulable suspicion. The Office of the Inspector General may require the anonymous complaint to be made in a manner and form that is intended only to obtain relevant facts related to the allegation, and that is not designed to reveal the identity of the complainant.

(c) All written complaints shall contain the following if applicable:

- (1) The name and address of the person or persons who file the complaint.
- (2) The sworn verification and signature of the complainant.
- (3) The name and address of the party or parties against whom the complaint is filed, and if such party is a candidate and the office being sought.
- (4) A clear and concise statement of acts upon which the complaint is based along with an allegation that such facts constitute one or more violations of law under the jurisdiction of the Office of the Inspector General.
- (5) A general reference to the statutory provision(s) of the code allegedly having been violated.
- (6) Any further information which might support the allegations in the complaint including, but not limited to, the following:
 - a. The name and address of all other persons who have firsthand knowledge of the facts alleged in the complaint; and
 - b. Any documentary evidence that supports the facts alleged in the complaint.

(d) *Defective complaint.* Upon receipt of a written, non-anonymous complaint which does not conform to the applicable requirements of this section, the Office of the Inspector General shall by written communication acknowledge receipt of the complaint and advise the complainant of the defect in the complaint and that the complaint may not be considered unless the defect is corrected.

(e) *Preliminary Review of Investigations.* Upon receipt of a complaint and/or the initiation of an investigation in accordance with this Article, the complaint or investigation shall be

assigned an intake number. To ensure that resources are utilized effectively, investigations are targeted and justified, and to avoid the conduct of unwarranted inquiries, within a period not to exceed 30 days following the initiation of an investigation by the Compliance Division of the Office of the Inspector General, the Office of the Inspector General must conduct a preliminary review of facts which must reasonably indicate the suspected misconduct or wrongdoing. A determination that facts are present which reasonably indicate the suspected misconduct or wrongdoing must be supported by credible evidence, a documented complaint, or specific and verifiable information. If, within 30 days of the initiation of an investigation, the Office of the Inspector General determines that the facts do not reasonably indicate the suspected misconduct or wrongdoing, the investigation should be closed and the subjects and witnesses involved provided written notice of the closure.

(f) *Opportunity for Response.* To protect against erroneous, arbitrary or adverse decisions and to afford the Office of the Inspector General an opportunity to reevaluate its position on the proposed adverse decision and affirm or modify the action, prior to the conclusion of an investigation, where the preliminary findings indicate the Office of the Inspector General shall issue an adverse decision or report, the subject of such an adverse decision, including any individuals, employees, officials, office or department of city government, or other entity shall be presented with a summary of the preliminary adverse findings and given the opportunity to respond to preliminary findings within 10 working days of the presentation of such findings.

- (1) *Response options.* The response may be made in writing or in person or both.
- (2) *Supporting documentation.* The subject may submit statements or supporting documentation from persons having knowledge of the circumstances to support the response.
- (3) *Representative.* If the subject chooses to meet with the Office of the Inspector General, the subject may be accompanied by a representative or attorney.
- (4) *Further official investigation.* The Office of the Inspector General may conduct further investigation, provided that the Office of the Inspector General determines that additional time is necessary for further investigation and proper consideration of the response to the proposed adverse findings.

(g) *Issuance of Final Decisions and Reports.* At the conclusion of any investigation conducted by the Compliance Division of the Office of the Inspector General, the Inspector General shall issue a final decision and report.

- (1) *Requirements of final decision and report.* As part of the final decision and report, the report shall include findings of fact and any law on which the decision is based, separately stated, and the effective date of the decision. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Where possible, names of witnesses and persons other

than the subject(s) of the investigation should not be contained in the final decision and report.

(2) *Transmittal and Referral of final decision and report.* The Inspector General shall provide the final decision and report to the Governing Board of the Office of the Inspector General. The Governing Board shall then transmit the final decision and report to the mayor, the city council and to the public. Should the final decision and report contain a finding of fraud, waste, or abuse, the Governing Board may refer the matter to the appropriate law enforcement agency for further investigation if the Governing Board shall determine such a referral to be appropriate. The Governing Board shall also cause closing letters to be transmitted to the subject(s) of investigations once an investigation is concluded, informing them of the findings and any follow-up actions within 30 days of the closure of the investigation.

(b)h) *Duties and Responsibilities.* The duties of the Inspector General as the director of the Compliance Division shall include, but not be limited to, the following:

- (1) Educating and training employees and officials in matters under the jurisdiction of the Compliance Division as approved by the Atlanta City Council pursuant to this Article;
- (2) Investigating allegations against and recommending specific disciplinary, punitive, or other adverse action, authorized by this division or chapter 114 of the City Code of Ordinances, to be taken against the classes of officials and employees under the jurisdiction of the Compliance Division as specified in this Article; ~~specified in part (4) of subsection (a) of this section, and in accordance with this section;~~
- (3) Forwarding allegations, reports, and factual determinations regarding violations of laws, rules, regulations, and internal policies related to matters under the jurisdiction of the Compliance Division to the disciplinary/appointing authority of any officials or employees ~~not under the jurisdiction of the Compliance Division specified in part (4) of subsection (a) of this section,~~ for action in accordance with chapter 114 of the City of Atlanta Code of Ordinances;
- (4) Conducting investigations into matters under the jurisdiction of the Compliance Division referred by the Ethics Officer, the Mayor, the Atlanta City Council, and the City Auditor ~~made in accordance with this Article;~~
- (5) Managing a complaint intake system; and monitoring, evaluating and acting upon information obtained therefrom which shall include, but shall not be limited to a city telephone number for the receipt of information about violations of matters under the jurisdiction of the ~~Compliance Division Office of the Inspector General~~, or by an employee of the city pursuant to section 3-508 of the City Charter. Each complaint, as of the time it is reported, whether by telephone or otherwise, shall

be deemed to be a separate pending investigation of a complaint against a public official or employee as provided by the Georgia Open Records Act;

(6) Urging compliance with laws, rules, regulations, and internal policies related to matters under the jurisdiction of the Compliance Division by investigating any failure to comply or ~~any issues, including~~ the furnishing of false or misleading information;

(7) ~~Notifying the subject of a report of the completion of an investigation into any alleged violation of a law, rule, regulation, or internal policy related to matters under the jurisdiction of the Compliance Division.~~

(8) ~~Reporting, as appropriate, suspected criminal violations of a law, rule, regulation, or internal policy related to a matter under the Compliance Division to the local, state or federal law enforcement agency with proper jurisdiction; and~~

(89) Issuing reports which provide recommended standards of practice to the applicable departments, offices, and boards of city government following a determination by the City Auditor of deficiencies.

(10) ~~Filing with the Governing Board of the Office of the Inspector General and the Ethics Office, the Mayor, and the Council each January a written report describing the activities of the Compliance Division in carrying out its goals.~~

(e) ~~Training. The Inspector General as director of the Compliance Division shall include in an annual report filed with the Governing Board of the Office of the Inspector General, the mayor, and the council each January in accordance with this section, a determination of area(s) of greatest concern on which the Inspector General proposes to conduct training during the calendar year of the report for approval by the council.~~

SECTION 2: That Part I, (Charter and Related Laws), Subpart A, (Charter), Article 8, Sections 8-101 through 8-106 are hereby amended such that thereafter they shall be deleted in their entirety and reserved as follows: (with permanent additions in underline font and permanent deletions in strikethrough font):

Section 8-108.— Reserved. Ethics Officer.

(a) ~~Appointment; qualifications; term; removal. There is hereby created the Ethics Officer and the City of Atlanta Ethics Office.~~

(1) ~~The Ethics Officer must be an active member of the State Bar of Georgia or admitted to the bar in another jurisdiction with eligibility to the State Bar of Georgia through reciprocity or passage of the Georgia bar examination and be in good standing with five years' experience in the practice of law. If the Ethics Officer is not an active member of the State Bar of Georgia on the date of hire, they shall seek and obtain admission within eighteen months of hire date.~~

(2) The Ethics Officer shall be appointed by a vote of two thirds of the Governing Board of the Office of the Inspector General and the Ethics Office for a period of five (5) years, subject to confirmation by a majority of the council and approval by the mayor. Removal of the Ethics Officer from office before the expiration of the designated term shall be for cause on a vote of two thirds of the members of the Governing Board of the Office of the Inspector General and the Ethics Office.

(b) The Ethics Officer shall be responsible for the administration and direction of the affairs and operations of the Ethics Office; shall exercise general management and control of the Ethics Office; and shall be deemed to be the appointing authority within the context of Chapter 114 of the City of Atlanta Code of Ordinances regarding actions concerning any of the deputies, assistants, employees and personnel assigned to the Ethics Office; and shall be responsible for maintaining records of the Ethics Office.

(c) The Ethics Officer shall be responsible to the Governing Board of the Office of the Inspector General and the Ethics Office.

(d) Pursuant to Chapter 114 of the City of Atlanta Code of Ordinances and within the budget approval process and established personnel policies for all departments, neither the members of the council, the president of the council, nor the mayor shall in any manner attempt to influence or dictate the appointment or removal of any such official or employee whom Ethics Officer is empowered to appoint.

(e) The Ethics Officer, and any deputies, assistants, employees and personnel of the Ethics Office shall be members of the unclassified service of the City and shall not engage in the private practice of law.

Section 8-109. – Reserved. Ethics Office.

(a) The Ethics Officer, as the leader of the Ethics Office shall be charged with the following duties and responsibilities:

(1) Educating and training all city officials and employees to have an awareness and understanding of the mandate for and enforcement of ethical conduct and advising of the provisions of the code of ethics of the city;

(2) Advising officials and employees regarding disclosure statements and reviewing same to ensure full and complete financial reporting;

(3) Urging compliance with the code of ethics by investigating any failure to comply or investigating any related issues, including the furnishing of false or misleading information;

(4) Managing a complaint intake system; and monitoring, evaluating and acting upon information obtained therefrom which shall include but shall not be limited to a city telephone number for the receipt of information about violations of matters under the jurisdiction of the Ethics Office, or by an employee of the city pursuant to section 3-508 of the City Charter. Each complaint, as of the time it is reported,

~~whether by telephone or otherwise, shall be deemed to be a separate pending investigation of a complaint against a public official or employee as provided by the Georgia Open Records Act;~~

- ~~(5) Notifying the subject of a report of the completion of an investigation into any alleged violation of the ethics code;~~
- ~~(6) Promptly reporting, as appropriate, suspected criminal violations or suspected non-ethics related violations under the jurisdiction of the Office of the Inspector General to the Inspector General; and~~
- ~~(7) Filing with the Governing Board of the Office of the Inspector General and the Ethics Office, the mayor and the council each January a written report describing the activities of the Ethics Office in carrying out the goals of the Ethics Office and the code of ethics and reporting on the ethical health of the city.~~

~~(b) The Ethics Officer shall render an ethics advisory opinion based upon a real or hypothetical set of circumstances, when requested in writing or verbally by anyone who is an official or employee of the city or a member of a board, council, committee or commission who is personally involved in a matter requiring interpretation of the ethics code. Any person requesting an opinion in accordance with this section who has made a full and complete disclosure of all relevant facts shall be entitled to rely on the opinion or finding of the Ethics Officer as a guide to the conduct of such person in the person's relations to and with the city. Compliance with a written opinion or finding of the Ethics Officer shall serve in mitigation in any proceedings against such person for violation of this Article or the ethics code. Advisory opinions based upon current law shall be posted on the City's website.~~

~~(c) The Ethics Office shall have the authority to prescribe rules and regulations pursuant to this Article and the ethics code to administer the financial disclosure process and to issue opinions under this Article and the ethics code. The Ethics Office shall prescribe appropriate financial disclosure forms, instructions and methods of disclosure as required to comply with the requirements of disclosure of income and financial interests found at section 2-814.~~

SECTION 3: That Part I, (Charter and Related Laws), Subpart A, (Charter), is hereby amended to add a new Article 9 which shall be entitled "The Ethics Office" and shall read as follows:

ARTICLE 9. - THE ETHICS OFFICE

Section 9-101. The Ethics Office.

- (a) *Establishment.* There is hereby established the Ethics Office.
- (b) *Purposes.* The purposes of this Article shall be to provide for an orderly and fair process for raising and addressing ethical questions and for disciplining those officials and

employees and other persons who violate the Code of Ethics/Standards of Conduct set forth in Chapter 2, Article VII, Division 2 of the City of Atlanta Code of Ordinances.

(c) The City of Atlanta Ethics Office shall be led by the Ethics Officer who shall be responsible for the administration and direction of the affairs and operations of the City of Atlanta Ethics Office.

(d) *Funding.*

- (1) The Atlanta City Council shall provide funds necessary for the facilities, equipment, and staffing of the Ethics Office to carry out the responsibilities specified herein and by ordinance.
- (2) Funding provided by the Atlanta City Council for the Ethics Office made pursuant to this section shall include specific funding for the Ethics Office.

(e) *Access to records and property; rights and responsibilities.*

(1) Except where confidential and/or privileged as recognized by state law, all city officials and employees shall allow the Ethics Office access pursuant to this subsection to any and all public records and property in the custody of the City of Atlanta, including but not limited to books, records, documents, and automated data. All city officials and employees shall also allow the Ethics Office access pursuant to this subsection to personnel, processes (including meetings) and other requested public information, pertaining to the business of the city and within the custody of the City of Atlanta regarding powers, duties, activities, organization, property, financial transactions, contracts, and methods of business, which have been determined by the Ethics Office to be required to conduct an investigation. In addition, except where confidential and/or privileged as recognized by state law, such officials and employees shall provide access for the Ethics Officer to inspect all property, equipment, and facilities within their custody. The provision of public records in the custody of the City of Atlanta pursuant to this section shall be done pursuant to applicable City of Atlanta internal processes and procedures without undue delay. The provision of property in the custody of the City of Atlanta pursuant to this section shall be pursuant to the following:

- a. The Ethics Office should first request that the employee or city contractor in possession of the property sought voluntarily surrender the property. This request should be in writing, detailing the reason for the investigation and specifying the property needed. This request shall include citation to any relevant laws, regulations, or policies that give the Ethics Office the authority to seize or review the City-owned property as part of the investigation.
- b. Should there be a refusal to voluntarily surrender the property, the Ethics Office may proceed with the issuance of a subpoena for such property in accordance with the requirements of this section.

- c. Upon the seizure of City property, the Ethics Office shall maintain a clear chain of custody for all seized property, documenting the time, date, and person who handled the property at each stage to maintain the integrity of the evidence.
- d. If necessary, pursuant to an investigation, the Ethics Office shall engage the Department of Atlanta Information Management or digital forensic experts to properly extract data from devices to preserve the integrity of the evidence without tampering.

The provision of personal property in the custody of City of Atlanta officials and/or employees can only be sought if there is a clear, legitimate reason to believe that they contain evidence relevant to thean investigation such as where public records are stored on personal electronic devices. The access to personal property shall only be obtained pursuant to the following procedures:

- a. The Ethics Office should first request that the employee or city contractor in possession of the personal property sought voluntarily surrender the personal property or the relevant information contained therein. This request should be in writing, detailing the reason for the investigation and specifying the property needed and the individual evidence such as emails, text messages, or files sought. This request shall include citation to any relevant laws, regulations, or policies that give the Ethics Office the authority to seize or review the City-owned devices as part of the investigation.
- b. Should there be a refusal to voluntarily surrender the personal property, the Ethics Office may proceed with the issuance of a subpoena for such property in accordance with the requirements of this section.
- c. Upon the seizure of personal property, the Ethics Office shall maintain a clear chain of custody for all seized property, documenting the time, date, and person who handled the property at each stage to maintain the integrity of the evidence.
- d. If necessary, the Ethics Office shall engage the Department of Atlanta Information Management or digital forensic experts to properly extract data from devices to preserve the integrity of the evidence without tampering.
- e. Efforts should be made to copy or mirror any personal property, computer, cell phones or other electronic devices, such that the inconvenience to the owner of the personal property is minimized.

(2) In the event any city official or employee shall fail to allow access to any requested public records and property in the custody of the City of Atlanta as required in this section, the Ethics Officer shall have the power to compel the

production of said public records or property in the custody of the City of Atlanta information by subpoena. The Municipal Court of Atlanta, upon written motion made promptly and in any event before the time specified in the subpoena for compliance therewith may either:

- a. quash or modify the subpoena if it is unreasonable or oppressive; or
- b. condition denial of the motion upon the advancement by the Ethics Officer of the reasonable cost of producing the evidence; or
- c. uphold the validity of the subpoena and compel release or access to the property.

If any person duly subpoenaed shall fail to allow access to said public records and property, the Ethics Officer shall report such failure to the Municipal Court of Atlanta any court of record or judge thereof in accordance with applicable law, who may make such order as shall be proper for the production of any such documents and things, or the person may be cited and punished for contempt by the Municipal Court

- (3) All contracts with outside contractors, vendors and agencies shall include an inspections clause to provide access for the Ethics Office's access to all records, and those of their subcontractors, needed to verify compliance with the terms specified in the contract. No member of the Office of the Ethics Office shall participate in any activity, decision or meeting that would impair independence.
- (4) In addition to as specifically provided in this section, in furtherance of an investigation initiated pursuant to this Article, the Ethics Officer may issue subpoenas to compel the production of documents and things including for books, records, documents, papers, automated data, and other written instruments. Subpoenas issued to third parties in possession of financial data, medical information, or telecommunications activity information, must be approved by a judge of the Municipal Court of Atlanta prior to issuance. Additionally, upon issuance, the person or entity whose information is sought from the third-party must be given a copy of the subpoena simultaneously with its issuance to give the third party an opportunity to contest the validity of the subpoena pursuant to a motion to quash before the disclosure of the records to the Ethics Office. The Municipal Court of Atlanta, upon written motion made promptly and in any event before the time specified in the subpoena for compliance therewith may either:
 - a. quash or modify the subpoena if it is unreasonable or oppressive; or
 - b. condition denial of the motion upon the advancement by the Ethics Officer of the reasonable cost of producing the evidence; or
 - c. uphold the validity of the subpoena and compel release or access to the requested records.

If any person duly subpoenaed shall fail to allow access to said public records and property, the Ethics Officer shall report such failure to the Municipal Court of Atlanta or judge thereof, who may make such order as shall be proper for the production of any such documents and things, or the person may be cited and punished for contempt by the Municipal Court.

- (5) Records and property subject to disclosure under this section which state law recognizes as confidential and/or privileged shall be exempt from disclosure to the Ethics Office or subpoena issued under this section.
- (6) The Ethics Office shall not publicly disclose any information received during an investigation that is considered confidential by any local, state, or federal law or regulation.
- (7) *Rights and responsibilities.*
 - a. The Ethics Office shall inform the subjects of the investigation prior to the time of their interview, if any, and subjects of an investigation shall have the right to representation of their choice from a union or an attorney during any interviews by the Ethics Office. If the subject desires an attorney, the city attorney may select and appoint an outside counsel to represent the subject.
 - b. Employees should be fully informed of their rights and responsibilities when interacting with the Ethics Office and be provided a clear written notice thereof prior to any interview. Employees should be informed of their duty to cooperate with the investigation and that any statements provided during an interview shall be considered compelled and that they therefore shall be entitled to protections from use in subsequent criminal prosecutions as outlined in *Garrity v. New Jersey*, 385 U. S. 493, 87 S.Ct. 616, 17 L.Ed.2d 562 (1967).
 - c. Employee interviews shall only be conducted during an employee's assigned working hours and shall only be conducted in City facilities unless a different time or location, including but not limited to the home of the employee, is mutually agreed upon by the employee and the Ethics Office.
- (8) In addition to the obligations described in this subsection, it shall be the duty of every city official or employees, and officials and employees of city outside contractors, vendors and agencies to cooperate with the Ethics Office regarding any investigation initiated pursuant to this Article by answering questions and/or make sworn statements concerning an investigation initiated pursuant to this Article when directed to do so by a duly appointed representative of the Ethics Office. Officials and employees will provide all relevant information and answer all questions honestly, completely, and to the best of their ability. An official or

employee's refusal to cooperate and provide sworn statements, answers, as required by this subsection shall be considered a violation in accordance with this section.

(f) *Violations.*

- (1) The intentional furnishing of false or misleading information to the Ethics Office, or the failure to follow a written ethics opinion rendered by the Ethics Officer, shall subject the violator to any one or more of the following:
 - a. Administrative sanction of not more than \$1,000.00 assessed by the Office of the Ethics Office;
 - b. Public reprimand by the Ethics Office; and
 - c. Prosecution by the city solicitor in municipal court for a violation of this section, and, upon conviction, to a fine of up to \$1,000.00 per violation and up to six months imprisonment in accordance with section 1-8, whether the official or employee is elected or appointed, paid or unpaid. Nothing in this section shall be interpreted to conflict with state law. An action for violation under this subsection shall be commenced within two years after the violation in accordance with section 1-9.
- (2) With regard to violations by City of Atlanta employees, in addition to the remedies articulated in this subsection, the Ethics Office may recommend any one or more of the disciplinary actions set forth in section 114-502.
- (3) With regard to violations by persons other than officials or employees, in addition to the remedies in this section, the Ethics Office may recommend to the Chief Procurement Officer any one or more of the following:
 - a. Suspension of a contractor; and
 - b. Disqualification or debarment from contracting or subcontracting with the city.
- (4) The value of any gratuity transferred from the City of Atlanta General Fund or received from the General Fund in breach of the provisions of this Article, the City of Atlanta Code of Ordinances, state law, or federal law, may be recovered from either the receiving official or employee or the person or entity providing the gratuity, for deposit in the City of Atlanta General Fund.

(g) *Protection for reporting of violations.* Officials and employees are encouraged to report suspected ethical violations to the Ethics Office. No official or employee shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the Ethics Office, information relating to a violation or investigation under this Article. No official or employee shall use or threaten

to use any official authority or influence in order to effect any action as a reprisal against an official or employee who reports, initiates a complaint, or otherwise brings to the attention of the Ethics Office, information relating to a violation or investigation under this Article.

- (1) A city official or employee, or officials or employees of city outside contractors, vendors and agencies, who believes that they have been subject to action in violation of this subsection may report an allegation of such action to the Ethics Office, which shall conduct an investigation into such an allegation.
- (2) Within 30 days of its receipt of an allegation made in accordance with this subsection, the Ethics Office shall provide written notice to the individual having made such an allegation, that the allegation has been received by the Ethics Office and the name of the individual in the Ethics Office who shall serve as the point of contact with the individual having made the allegation.
- (3) At the conclusion of an investigation conducted pursuant to this subsection, the Ethics Office shall issue a final decision and report in accordance with this section. Violations of this subsection shall be subject to action provided in subsection (f) in addition to any remedies available under federal or state law.

(h) Upon request of the Governing Board of the Ethics Office, the city attorney, shall provide legal counsel to the Governing Board. Any attorney(s) assigned to provide legal counsel to the Ethics Office shall be subject to internal measures adopted by the Department of Law to ensure confidentiality of information gained while advising the Ethics Office and that there shall be no conflicts under Rule 1.7 of the Georgia Rules of Professional Conduct.

(i) *City political activities, prohibited.*

- (1) The Ethics Officer shall not engage in city electoral political activities and may not make campaign contributions to candidates in city elections during their terms. A violation of this subsection shall constitute cause for removal of as described in this Article.
- (2) No employee of the Ethics Office shall perform work, either in a paid or unpaid capacity, for any candidate for City elected office.

Section 9-102. Governing Board of the Ethics Office.

- (a) To ensure the independence of the Ethics Office, the Governing Board of the Ethics Office is hereby established.
- (b) The Governing Board of the Ethics Office shall have the powers and duties as provided in this Article.
- (c) The position of a member of the Governing Board of the Ethics Office shall be deemed vacated:

- (1) Upon the expiration of his or her term, except that any member of the Governing Board serving an expired term may continue to serve until they are re-appointed or until a successor is appointed;
- (2) Upon the death of a member or the disability or incapacity of a member for more than 90 days;
- (3) Upon the written resignation of the member, tendered to the Board;
- (4) Upon removal of the member for good cause by a majority vote of the Board;

(d) Members shall be prohibited from engaging in city electoral political activities and from making campaign contributions to candidates in city elections during their terms as Board members. Violations of this subsection may be punished by removal from Board membership by a majority vote of the members.

(e) Unless otherwise specified, the Governing Board of the Office of the Ethics Office shall:

- (1) Elect a chair, who must be an attorney and who must have no less than five years of investigative experience, by majority vote of the serving members. Each chair will serve a one-year term and shall be eligible to serve as chair in successive years.
- (2) Elect a vice-chair to preside in the absence of the chair. The vice-chair will serve a one-year term and shall be eligible to serve as vice-chair in successive years.
- (3) The Governing Board of the Ethics Office shall elect a secretary to provide administrative assistance to the Board.
- (4) Hold regular meetings at City Hall. Such meetings shall be televised. All meetings of the Board shall be conducted as required by the Georgia Open Meetings Act.
- (5) Conduct its business only with a quorum. A majority of the members of the Governing Board, shall constitute a quorum. The affirmative vote of a majority of the members shall be required for the transaction of business, except as otherwise provided by this Article. In no event shall a decision of the Board be voted upon by fewer than 6 members.

(6) The Governing Board of the Ethics Office shall be free to contract for the services of a competent court reporter to take down statements, testimony and discussions at its meeting or to use in lieu thereof a competent person adept at shorthand reporting and/or mechanical transcribing devices, whichever method is from time to time desired by the Board, such services to be paid for by the city. (f) The city shall pay all administrative costs, including those specifically stipulated in this Article, pertaining to the operation of the Board.

(g) No member of the Board present at a meeting of a quorum of the Governing Board of the Ethics Office shall abstain from voting for any reason other than a publicly disclosed conflict of interest.

(h) The Governing Board of the Ethics Office may establish its own bylaws. Except as otherwise provided in this Article, or as set forth in duly adopted bylaws, the meetings of the Governing Board of the Ethics Office shall be governed by Robert's Rules of Order.

Section 9-103. Functions of the Governing Board of the Ethics Office; appeal hearings.

In addition to the functions described in this Article, the Governing Board of the Office of the Ethics Office shall:

- (a) Hear all appeals that may be filed from any adverse decision or report issued by the Ethics Office, pursuant to this Article. Appeals must be filed within 14 days of receipt of the adverse decision. In no way shall the ability to appeal an adverse decision of the Ethics Office issued pursuant to this Article constitute the establishment of a property interest in any employee's employment with the City. Any such property interest shall only be established pursuant to Chapter 114.
- (b) *Subpoena; authority of Governing Board of the Ethics Office.*
 - (1) *Issuance, contents, service.* Whenever the attendance of any witness may be required before the Governing Board of the Ethics Office to establish any fact in connection with any hearing which may be lawfully conducted by the Governing Board, the Governing Board is authorized to, by majority vote, issue a subpoena, directed to the witness, requiring the witness to personally be and appear at the time and place of the hearing conducted by the Board and to produce at that time and place any documentary evidence which, in the judgment of the Board, may be required. Such witness shall remain in attendance at the hearing until excused therefrom. The subpoena shall be issued in the name of the city, shall be signed by the presiding member of the Board. Service of a hearing subpoena issued by the Board in accordance with this subsection shall be issued at least 24 hours before the time such witness is required to attend and shall continue in effect until the attendance of the witness.
 - (2) *Penalty for violation.* If any person so summoned as set out in part (1) of subsection (b) of this section as a witness shall fail, neglect or refuse to attend the hearing or shall fail, neglect or refuse to produce any relevant documentary evidence or shall fail or refuse to take and subscribe to the required oath or affirmation or shall fail to answer any question lawfully propounded or shall fail to continue in attendance until excused by the Board, the person shall be cited to appear before the municipal court and, upon conviction, to punishment as provided in section 1-8.
- (c) During all hearings before the Board, formal legal rules of evidence shall not be strictly applied. Evidence may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The Board shall follow the Georgia rules of evidence regarding privileges.

- (d) Any decisions of the Governing Board of the Office of the Ethics Office on an appeal filed in accordance with this section shall be either to affirm or overturn the decision of the Ethics Office; and shall be issued in writing by the member of the Board presiding over the hearing, shall be issued in writing within 15 days from the close of the evidence. The Board shall use "the preponderance of the evidence" as the standard of proof for all decisions. The decision shall be transmitted to the parties or their representatives. The Board's decision shall be final, and there shall be no right to any additional administrative appeals.
- (e) Final decisions of the Board against a party subject to an investigation may be appealed via a petition for review pursuant to the Superior and State Court Appellate Practice Act at OCGA Sec. 5-3-1, et seq.

Section 9-104. The Governing Board of the Ethics Office; appointments; terms.

- (a) The Governing Board of the Ethics Office shall consist of seven members, all of whom shall be known for their personal integrity. Nominees shall either be residents of the city, shall be employed within the city, or shall maintain business interests within the city. It is further urged that the members of the Board shall reflect the diversity of the city with regard to race, color, creed, religion, gender, marital status, parental status, familial status, sexual orientation, national origin, gender identity, age and disability. At all times, at least three members shall be attorneys licensed to practice law in the State of Georgia.
- (b) Appointments to the Board shall be made by the mayor and shall be confirmed by the city council, the governing authority of the City of Atlanta. The mayor shall receive recommendations for appointment to the Board provided by the following organizations:
 - (1) The Atlanta Bar Association may recommend one member;
 - (2) The Gate City Bar Association may recommend one member;
 - (3) The Atlanta Business League may recommend one member, chosen from the organizations that are members of the league;
 - (4) The Metro Atlanta Chamber of Commerce may recommend one member from the organizations that are members of the chamber;
 - (5) The Atlanta Planning Advisory Board may recommend one member, which member shall not be an officer of a neighborhood planning unit;
 - (6) The Association of Certified Fraud Examiners may recommend one member, chosen from the members of the association;
 - (7) The Georgia Society of Certified Public Accountants may recommend one member, chosen from the members of the society.
- (c) The members shall each serve for terms of three years. The members shall elect a chairperson, who shall be an attorney with no less than five years of investigative experience, from among the members, yearly.

(d) Appointees shall be subject to an education and employment background check, a criminal history check, and a check for past violations under the jurisdiction of the Ethics Office. Appointees shall execute all releases necessary for the department of personnel and human resources and the department of police to accomplish the same. If the appointee is determined to have committed a felony, the proposed appointment shall be withdrawn.

Section 9-105. Ethics Officer.

(a) *Appointment; qualifications; term; removal.* There is hereby created the Ethics Officer.

(1) The Ethics Officer must be an active member of the State Bar of Georgia or admitted to the bar in another jurisdiction with eligibility to the State Bar of Georgia through reciprocity or passage of the Georgia bar examination and be in good standing with five years' experience in the practice of law. If the Ethics Officer is not an active member of the State Bar of Georgia on the date of hire, they shall seek and obtain admission within eighteen months of hire date.

(2) The Ethics Officer shall be appointed by a vote of two-thirds of the Governing Board of the Ethics Office for a period of five (5) years, subject to confirmation by a majority of the council and approval by the mayor. Removal of the Ethics Officer from office before the expiration of the designated term shall be for cause on a vote of two-thirds of the members of the Governing Board of the Ethics Office.

(b) The Ethics Officer shall be responsible for the administration and direction of the affairs and operations of the Ethics Office; shall exercise general management and control of the Ethics Office; and shall be deemed to be the appointing authority within the context of Chapter 114 of the City of Atlanta Code of Ordinances regarding actions concerning any of the deputies, assistants, employees and personnel assigned to the Ethics Office; and shall be responsible for maintaining records of the Ethics Office.

(c) The Ethics Officer shall report to the Governing Board of the Ethics Office; and notwithstanding any provision of this Article to the contrary, the Governing Board shall act as the appointing authority within the context of Chapter 114 of the City of Atlanta Code of Ordinances regarding actions concerning the Ethics Officer.

(d) *Reporting Responsibilities.* The Ethics Officer's responsibilities to the Governing Board shall include but shall not be limited to the following:

(1) Providing the Governing Board with written copies of the policies and procedures of the Ethics Office, including but not limited to investigative policies and procedures for approval of the same.

(2) Issuing quarterly public reports to the Governing Board to ensure transparency and accountability. These quarterly reports shall be considered public records and should include summaries of investigations, recommendations for corrective

actions, outcomes (without disclosing sensitive or confidential information), and any difficulties or problems that the Ethics Office may have encountered.

- (3) Submitting the Ethics Office to peer reviews to be conducted by professionals from similar agencies and coordinated by the Governing Board no fewer than once every four years in order to assess the quality, fairness, and adherence to standards of the work of the Ethics Office.
- (4) Providing written updates concerning the status of ongoing investigations to the Governing Board. During the pendency of any investigation, these written updates shall be considered a part of the investigative file and therefore exempt from production under the Georgia Open Records Act pursuant to OCGA Section 50-18-72(a)(4), (8). Discussion by the Governing Board concerning such written updates may be held in executive session in accordance with the Georgia Open Meetings Act pursuant to OCGA Section 50-14-3(b)(4).
- (5) Providing an annual written report after approval by the Governing Board, to the mayor, and the council each January describing the activities of the Ethics Office in carrying out the goals of the Ethics Office and the code of ethics and reporting on the ethical health of the city.

(e) Pursuant to Chapter 114 of the City of Atlanta Code of Ordinances and within the budget approval process and established personnel policies for all departments, neither the members of the council, the president of the council, nor the mayor shall in any manner attempt to influence or dictate the appointment or removal of any such official or employee whom Ethics Officer is empowered to appoint.

(f) The Ethics Officer, and any deputies, assistants, employees and personnel of the Ethics Office shall be members of the unclassified service of the City and shall not engage in the private practice of law.

Section 9-106. Ethics Office.

- (a) The Ethics Officer, as the leader of the Ethics Office shall be charged with the following duties and responsibilities:
 - (1) Educating and training all city officials and employees to have an awareness and understanding of the mandate for and enforcement of ethical conduct and advising on the provisions and applicability of the code of ethics of the city;
 - (2) Advising officials and employees regarding disclosure statements and reviewing same to ensure full and complete financial reporting;
 - (3) Urging compliance with the code of ethics by investigating any failure to comply or investigating any related issues pursuant to this Article and/or the code of ethics of the city, including the furnishing of false or misleading information;

- (4) Managing a complaint intake system; and monitoring, evaluating and acting upon information obtained therefrom which shall include but shall not be limited to a city telephone number for the receipt of information about violations of matters under the jurisdiction of the Ethics Office, or by an employee of the city pursuant to section 3-508 of the City Charter. Each complaint, as of the time it is reported, whether by telephone or otherwise, shall be deemed to be a separate pending investigation of a complaint against a public official or employee as provided by the Georgia Open Records Act;
- (6) Promptly reporting, as appropriate, suspected non-ethics related violations to the appropriate administrative party within City of Atlanta government for review and potential investigation.

(b) *Ethics Opinions.* The Ethics Officer shall render an ethics advisory opinion based upon a real or hypothetical set of circumstances, when requested in writing or verbally by anyone who is an official or employee of the city or a member of a board, council, committee or commission who is personally involved in a matter requiring interpretation of the ethics code. Any person requesting an opinion in accordance with this section who has made a full and complete disclosure of all relevant facts shall be entitled to rely on the opinion or finding of the Ethics Officer as a guide to the conduct of such person in the person's relations to and with the city. Compliance with a written opinion or finding of the Ethics Officer shall serve in mitigation in any proceedings against such person for violation of this Article or the ethics code. Advisory opinions based upon current law shall be posted on the City's website.

(c) The Ethics Office shall have the authority to prescribe rules and regulations pursuant to this Article and the ethics code to administer the financial disclosure process and to issue opinions under this Article and the ethics code. The Ethics Office shall prescribe appropriate financial disclosure forms, instructions and methods of disclosure as required to comply with the requirements of disclosure of income and financial interests found at section 2-814.

(d) Pursuant to the requirements of this Article, the Ethics Office shall have the authority to initiate and conduct investigations in accordance with clear Investigation protocols to be adopted by the Ethics Office which shall ensure that all investigations follow a consistent process, which includes defining the scope, objectives, and timeline of the investigation. Investigations may be initiated:

- (1) Upon a sworn written complaint by any person in a form prescribed by the Ethics Office, and which can be supported by the Ethics Office through a showing of reasonable articulable suspicion;
- (2) Upon internal determination by the Ethics Office, supported by reasonable articulable suspicion, that a matter involving abuse of authority in the exercise of official duties or while acting under color of office, substantial misconduct, (such as gross mismanagement, gross waste of funds, or a substantial violation of law,

ordinance, or regulation), or conduct that undermines the independence or integrity reasonably expected of an official has occurred or is occurring;

- (3) Upon request via Resolution by the Atlanta City Council;
- (4) Upon request by the Mayor of the City of Atlanta via administrative order;
- (5) Upon request of the Chief Transparency Officer;
- (6) Upon receipt of an anonymous or non-sworn written complaint. Where a complaint is communicated anonymously, such complaint shall be made in good faith, and with veracity and sufficient specificity so as to provide salient and investigable facts which can be supported by the Ethics Office through a showing of reasonable articulable suspicion. The Ethics Office may require the anonymous complaint to be made in a manner and form that is intended only to obtain relevant facts related to the allegation, and that is not designed to reveal the identity of the complainant.

(e) All written complaints shall contain the following if applicable:

- (1) The name and address of the person or persons who file the complaint.
- (2) The sworn verification and signature of the complainant.
- (3) The name and address of the party or parties against whom the complaint is filed, and if such party is a candidate and the office being sought.
- (4) A clear and concise statement of acts upon which the complaint is based along with an allegation that such facts constitute one or more violations of law under the jurisdiction of the Ethics Office.
- (5) A general reference to the statutory provision(s) of the code allegedly having been violated.
- (6) Any further information which might support the allegations in the complaint including, but not limited to, the following:
 - a. The name and address of all other persons who have firsthand knowledge of the facts alleged in the complaint; and
 - b. Any documentary evidence that supports the facts alleged in the complaint.

(f) *Defective complaint.* Upon receipt of a written, non-anonymous complaint which does not conform to the applicable requirements of this section, the Ethics Office shall by written communication acknowledge receipt of the complaint and advise the complainant of the defect in the complaint and that the complaint may not be considered unless the defect is corrected.

(g) *Preliminary Review of Investigations.* Upon receipt of a complaint and/or the initiation of an investigation in accordance with this Article, the complaint or investigation shall be assigned an intake number. To ensure that resources are utilized effectively, investigations are targeted and justified, and to avoid the conduct of unwarranted inquiries, within a period not to exceed 30 days following the initiation of an investigation by the Ethics Office, the Ethics Office must conduct a preliminary review of facts which must reasonably indicate the suspected misconduct or wrongdoing. A determination that facts are present which reasonably indicate the suspected misconduct or wrongdoing must be supported by credible evidence, a documented complaint, or specific and verifiable information. If, within 30 days of the initiation of an investigation, the Ethics Office determines that the facts do not reasonably indicate the suspected misconduct or wrongdoing, the investigation should be closed.

(h) *Opportunity for Response.* To protect against erroneous, arbitrary adverse decisions and to afford the Ethics Office an opportunity to reevaluate its position on the proposed adverse decision and affirm or modify the action, prior to the conclusion of an investigation, where the preliminary findings indicate the Ethics Office shall issue an adverse decision or report, the subject of such an adverse decision, including any individuals, employees, officials, office or department of city government, or other entity shall be presented with a summary of the preliminary adverse findings and given the opportunity to respond to preliminary findings within 10 working days of the presentation of such findings.

- (1) *Response options.* The response may be made in writing or in person or both.
- (2) *Supporting documentation.* The subject may submit statements or supporting documentation from persons having knowledge of the circumstances to support the response.
- (3) *Representative.* If the subject chooses to meet with the Ethics Office, the subject may be accompanied by a representative or attorney.
- (4) *Further official investigation.* The Ethics Office may conduct further investigation, provided that the Ethics Office determines that additional time is necessary for further investigation and proper consideration of the response to the proposed adverse findings.

(i) *Issuance of Final Decisions and Reports.* At the conclusion of any investigation conducted by the Ethics Office, the Ethics Officer shall issue a final decision and report.

- (1) *Requirements of final decision and report.* As part of the final decision and report, the report shall include findings of fact and any law on which the decision is based, separately stated, and the effective date of the decision. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Where possible, names of witnesses and persons other

than the subject(s) of the investigation should not be contained in the final decision and report.

(2) *Transmittal and Referral of final decision and report.* The Ethics Officer shall provide the final decision and report to the Governing Board of the Ethics Office. The Governing Board shall then transmit the final decision and report to the mayor, the city council and to the public. The Governing Board shall also cause closing letters to be transmitted to the subject(s) of investigations once an investigation is concluded, informing them of the findings and any follow-up actions within 30 days.

SECTION 4: That a copy of this proposed amendment to the Charter of the City of Atlanta, Georgia 1996 Ga. L., et seq. as amended, shall be filed in the Office of the Municipal Clerk of the City of Atlanta and in the Offices of the Clerks of the Superior Courts of Fulton and DeKalb Counties and that a "Notice of Proposed Amendment to the Charter of the City of Atlanta, Georgia," attached hereto and marked Exhibit "A" and made a part of this ordinance, be published in the official organ of the county of the legal situs of the City of Atlanta or in a newspaper of general circulation in the City of Atlanta once a week for three weeks within a period of 60 days immediately preceding its final adoption, and that a copy of said advertisement be attached to this ordinance prior to its final adoption by the Council of the City of Atlanta.

SECTION 5: That the Chief Financial Officer is hereby authorized to amend the Fiscal Year 2025 budget as shall be applicable upon the date of approval of this Ordinance, to create any fund, account and center number as shall be necessary, and to allocate any appropriate funding as shall be necessary as a result of the actions authorized in this Ordinance.

SECTION 6: That the Commissioner of the Department of Human Resources is hereby authorized to take whatever actions shall be necessary to effectuate the actions authorized in this Ordinance.

SECTION 7: That the appointment of the members of the Governing Board of the Office of the Inspector General and the Governing Board of the Ethics Office pursuant to this Ordinance shall commence following the approval thereof.

SECTION 8: The incumbents in the position of Inspector General and Ethics Officer, serving on the date of the approval of this Ordinance are authorized to remain in office through the conclusion of the term to which they were appointed.

SECTION 9: That the amendments contained in this Ordinance shall be effective immediately upon approval.

SECTION 10: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict only.

SECTION 11: That the Municipal Clerk is instructed to retain all legislative history references in the codified version of the Charter of the City of Atlanta, Georgia, including Editor's notes, and shall not delete any such references, but shall amend them to include this ordinance.

EXHIBIT “A”

NOTICE OF PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF ATLANTA

Notice is hereby given that an Ordinance has been introduced to amend the Charter of the City of Atlanta (Ga. Laws, 1996, p. 4469, et seq.) approved April 15, 1996, as amended, said Ordinance being captioned as follows:

AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF ATLANTA, GEORGIA, 1996 GA LAWS P. 4469, ET SEQ., ADOPTED UNDER AND BY VIRTUE OF THE AUTHORITY OF THE MUNICIPAL HOME RULE ACT OF 1965, O.C.G.A. SECTION 36-35-1 ET SEQ. AS AMENDED, BY AMENDING PART I (CHARTER AND RELATED LAWS), SUBPART A (CHARTER), ARTICLE 3 (EXECUTIVE), IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE CITY OF ATLANTA TEMPORARY TASK FORCE CHARGED WITH REVIEWING THE PROCESSES AND PROCEDURES OF THE OFFICE OF THE INSPECTOR GENERAL, (OIG), THE ETHICS OFFICE, AND THE GOVERNING BOARD OF THE OFFICE OF THE INSPECTOR GENERAL AND THE ETHICS OFFICE REGARDING THE AUTHORITY, OVERSIGHT AND THE CLARIFICATION OF RESPECTIVE ROLES AND RESPONSIBILITIES OF THE OIG, AND THE ETHICS OFFICE, AND TO CREATE SEPARATE GOVERNING BOARDS FOR THE OIG AND THE ETHICS OFFICE; AND FOR OTHER PURPOSES.

A copy of the proposed Ordinance and Charter Amendment is on file in the Office of the Municipal Clerk of the City of Atlanta and in the Offices of the clerks of the Superior Courts of Fulton and DeKalb Counties, Georgia for the purpose of examination and inspection by the public.

This _____ day of _____, 2025.

Corrine Lindo
Municipal Clerk
City of Atlanta