



ORDINANCE NO. 2023-05

**AN ORDINANCE AMENDING ARTICLE VIII OF THE CITY CODE TO PROVIDE FOR A PUBLIC SAFETY CITIZENS ADVISORY PANEL CAP.**

**WHEREAS**, the City Council ("Council") of the City of Orangeburg ("City") finds:

- (a) The Council is authorized and empowered to provide for its internal operation according to South Carolina Constitution Article VIII, section 17, and the Home Rule Act of 1975;
- (b) Article VIII. Department of Public Safety of the Code of Ordinances: City of Orangeburg ("City Code") provides for the operation of the City's Department of Public Safety; and
- (c) The Council desires to create a public safety citizens advisory panel composed of independent citizens of good character and good judgment for the purpose of providing for an independent panel of the City's citizens of good character and good judgment to review and provide advice regarding the Department of Public Safety's policies and procedures and specific events involving department employees; and
- (d) Because of these distinctive aspects of serving the City as a sworn employee, merit exists in having independent citizens of good character and good judgment providing commentary on departmental policies and practices.

**NOW, THEREFORE**, the Council ordains that everything between the "\*" be enacted and codified in the City Code as described in this Ordinance:

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**Sec. 2-216.1. Short Title.**

Sections 2-216.1 through and including Section 2-216.8 may be cited as the "Citizens Advisory Panel Code."

**Sec. 2-216.2. Findings and Purpose.**

The demands, training, certification, organizational structure, and responsibilities of sworn employees, who serve in the City's department of public safety ("DPS"), are unique. Because of these distinctive aspects of serving the City as a sworn employee, merit exists in having independent citizens of good character and good judgment providing commentary on DPS policies and practices.

**Sec. 2-216.3. Citizen Advisory Panel Established.**

There is established a DPS Citizen Advisory Panel ("CAP"). The CAP is entitled to receive and review any matter raised by a DPS sworn employee or a citizen of the City.

**Sec. 2-216.4. Composition of CAP.**

The CAP consists of seven voting members and three nonvoting members. Each member of Council, in that member's sole discretion, shall appoint a member from that Council member's district. Each voting member serves for four years, except for the appointment of five of the initial voting members, which serve for two years. Each voting member must be at least 21 years old. Each member must have sound judgment and be of good moral character. Each member must be a full-time resident of the City. A member shall not be related, within one degree of affinity or consanguinity to a sworn officer or Council member.

One nonvoting member must be, when appointed, at least 16 years old and a high school student. This member serves until the earlier of one year from appointment and the member's graduation from high school.

One nonvoting member must be, when appointed and throughout that member's entire term, a sworn employee of the police department, and one nonvoting member must be, when appointed and throughout the member's entire term, a sworn employee of the fire department. Each DPS member serves until the earlier of one year from appointment and the member's no longer being a sworn employee of the applicable department. Each nonvoting member must have at least five continuous years' experience with DPS and must not be the grade of lieutenant or higher.

As soon as practicable, but in no event later than three months from the date of appointment, each member shall participate in at least one ride-along with a police officer and complete training in the police department's use of force training simulator. As soon as practicable, but in no event later than six months from the date of appointment, each member shall complete the police department's citizen training academy. A member who fails to complete the foregoing training is automatically removed from the CAP.

The Council may appoint a member for successive terms. The Council shall fill a vacancy on the CAP by appointing a new member for the balance of the unexpected term of the prior member. Each member holds office until a successor has been appointed and qualified. A member shall not receive compensation for service on the CAP.

#### **Sec. 2-216.5. CAP Meetings and Records.**

At the beginning of each calendar year, the CAP shall establish its meeting schedule for that calendar year. The CAP shall hold no less than six meetings per calendar year with no two meetings being more than 75 days apart. The CAP may also hold special meetings as requested by no less than four CAP members. The CAP shall establish rules for maintaining good order at each meeting and providing sworn employees and the City's citizens with a reasonable opportunity to be heard. The CAP shall maintain minutes of each meeting. The CAP is a public body and is subject to the South Carolina Freedom of Information Act ("FOIA"), provided, however, the CAP shall exempt from disclosure and/or attendance by the public any portion of a meeting and any portion of a document that can be exempted from disclosure under FOIA.

Prior to attending a CAP meeting, each CAP shall sign a confidentiality agreement, the form of which is the City Attorney shall prescribe.

#### **Sec. 2-216.6. Raising Matters to the CAP.**

(a) *Internal matters.* Any sworn employee who thinks a DPS policy or practice results continually in unfair treatment or thinks that on a single occasion, an especially important event has occurred that the sworn employee may file a signed, written statement requesting the CAP to review the matter(s). The signed, written statement must specify what actions the sworn employee has taken to seek a redress of the matter(s) raised and how the DPS's policies have failed to address the matter(s). The sworn employee may elect to act (i) under the process outlined in this Section 2-216.6 or (ii) according to any grievance process the sworn employee may under the City's policies, but not both.

The police department shall provide the CAP with a list of all matters asserting that a sworn employee failed to follow DPS policy regarding wearing and utilizing a body camera.

The CAP is not entitled to address the following matters:

1. Annual employee evaluations.
2. Job assignments.
3. Compensation.

(b) *External matters.* Any citizen of the City who thinks a DPS policy or practice results continually in unfair treatment or thinks that on a single occasion, an especially important event has occurred that the citizen may file a signed, written statement requesting the CAP to review the matter(s). The DPS shall investigate the matter(s) raised by the written statement and provide the citizen with a final DPS determination. If the citizen is dissatisfied with the final DPS determination, then the citizen may seek further consideration by the CAP as outlined in the Citizens Advisory Panel Code. Each final DPS determination must provide the citizens with notice of Citizens Advisory Panel Code.

1. *Promotion of the complaint and appeals process.* DPS shall feature the external matter process in all public notifications regarding the CAP.
2. *Periodic reporting to the CAP.* At each regularly scheduled CAP meeting, DPS shall provide a sequentially numbered log of each written statement submitted regarding a particular sworn employee with the disposition of each matter.

(c) *CAP matters.* The CAP may, on its own initiate, inquire into a DPS policy or practice, or into the facts giving rise to a specific occurrence, provided the CAP first delivers to the city manager a written statement of its intent to do so. Upon completion of such inquiries, the CAP shall make a summary of its findings and present them along with any recommendations to the city administrator.

#### **Sec. 2-216.7. CAP Inquiry.**

In exercising its duties under the Citizens Advisory Panel Code, the CAP is entitled to reasonable access to relevant personnel records, personnel investigation records, and other records kept in the normal course

of DPS operations, except as could otherwise be exempted from disclosure. The CAP is entitled to interview any City employee, other than the City Administrator, the Deputy City Administrator, the City Attorney, or any member of their respective office staffs. The CAP is also not entitled to interview an elected official of the City. The CAP may request, but not require, any citizen to appear for interview. The CAP may draw a negative inference from the failure of a citizen to appear.

Upon completion of the inquiry, the CAP shall summarize its findings and recommended action(s), if any, and shall submit those to the sworn employee or the citizen who raised the matter(s) with a copy to the City Administrator and the City Attorney.

The City Attorney shall resolve any disputes between the CAP and DPS regarding the disclosure of documents and/or information and/or the summons of any City employee for interview. The Council may amend the City Attorney's resolution. At the CAP's request, the City Attorney is entitled, but not required, to provide legal services to the CAP.

**Sec. 2-216.8. No retaliation.**

A sworn employee shall not retaliate against person because of that person's having acted under the Citizens Advisory CAP Code. A sworn employee's violation of this Section 2-216.8 may form the basis for disciplinary action.

**Sec. 2-216.9. Conflict of Interest.**

A member may not make, participate in making, or in any way attempt to use that member's position on the CAP to influence any decision in which the member, a member's immediate family, an individual with whom the member is associated, or a business with which the member is associated has an economic interest as described in South Carolina Code Annotated section 8-13-10, *et seq.*

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**Codification.** The City shall codify the contents of this Ordinance in Article VIII of the City Code as Section 2-216.1 through and including Section 2-216.9, or as otherwise appropriately numbered, of the City Code, online as soon as practicable and in print as part of the City's next, regular, re-codification.

**Reservation of Code Sections.** Section 2-190 through and including Section 2-215 of the City Code remain reserved for future use.

**Reservation to City.** The City reserves the right to repeal or amend this Ordinance, at any time, from time to time, as often as the City, in its sole discretion, deems appropriate.

**Severability.** If any part of this Ordinances is unenforceable for any reason, then the remainder of this Ordinance remains in full force and effect.

ENACTED BY the City Council on March 21, 2023, and effective immediately.

Mayor

*Michael C. Beale*  
*Liz Zimmerkeith*  
*Jandra P. Anttila*  
*Richard F. Stumm*  
*Kelley*  
*Ben Haire*

Members of Council



Attest: *Linda McDaniel*  
City Clerk

First Reading: November 1, 2022  
Second Reading: February 21, 2023  
Third Reading: March 21, 2022