

...Councilmember Grogan. ...Councilmembers Reek, Pletus, Brannen, Unstain,

COUNCIL BILL NO. 111178

ORDINANCE NO. 3454

AN ORDINANCE OF THE CITY OF MARIETTA, GEORGIA, ADOPTING AND ENACTING A NEW CODE FOR MARIETTA, GEORGIA: ESTABLISHING THE SAME: PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN, EXCEPT AS HEREIN EXPRESSLY PROVIDED: PROVIDING FOR THE MANNER OF AMENDING SUCH CODE: PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE: PROVIDING CERTAIN PENALTIES: AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE CITY OF MARIETTA, GEORGIA, AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME AS FOLLOWS:

Section 1. The document entitled the "Code of Marletta, Georgia," a copy whereof accompanies this ordinance and is incorporated herein and made a part hereof, is hereby adopted and shall be treated and considered as a new and original comprehensive ordinance.

Section 2. All ordinances and resolutions of a general and permanent nature of Marietta, Georgia, enacted on final passage on or before November 10, 1977, and not in the code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided.

Section 3. The repeal provided for in Section 2 hereof shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance; nor shall this repeal affect any ordinance or resolution of the city promising or guaranteeing the payment of money by or to the City, or authorizing the issuance of any bonds of the City, or any evidence of the City's indebtedness, or any contract or obligation assumed by the City; nor shall this repeal affect any rights or franchise granted by any ordinance or resolution of the City to any person, firm or corporation; nor shall this repeal affect any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the City; nor shall this repeal affect the present annual appropriation of the City, nor shall this repeal affect any ordinance or resolution levying or imposing charges, fees or taxes now due or accrued; nor shall this repeal be construed to revive any ordinance or resolution or part thereof that has been repealed by a subsequent ordinance or resolution which is repealed by this ordinance.

Section 4. The provisions appearing in this code, so far as they are the same as provisions of ordinances and resolutions existing at the time of the effective date of this code, are intended, and shall be considered, as continuations there and not as new enactments.

Section 5. Any and all additions or amendments to the code, when passed in such form as to indicate the intention of the City Council to make the same a part thereof, shall be deemed to be incorporated into the code so that reference to the "Code of Marietta, Georgia," shall be understood and intended to include such additions and amendments.

Section 6. A copy of the code shall be kept on file in the office of the City Clerk, and preserved in looseleaf form, or in such other form as the City Clerk may consider most expedient. It shall be the express duty of the City Clerk or someone authorized by the City Clerk, to insert in their designated places all amendments, ordinances or resolutions which indicate the intention of the City Council to make those provisions a part of the code, when those provisions have been reprinted in page form, and to extract from the code all provisions which may be from time to time repealed by the City Council. A copy of the code shall be available for all persons desiring to examine it and shall be considered the official Code of Marietta, Georgia.

Section 7. As pages of the code are replaced because the matter contained on them shall have been repealed, amended, or otherwise shall have been superseded or rendered obsolete or inoperative the City Clerk shall retain copies of the pages of the code so superseded, rendered obsolete or otherwise rendered inoperative in a file so that the former provisions of the code may be readily available and easily found. The purpose of this section is to permit anyone desiring to do so to ascertain the precise status of any section of the code as of any given date.

Section 8. In case of the amendment of any section of the code for which a penalty is not provided, the general penalty as provided in the City Charter of the code shall apply to the section as amended; or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 9. It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of the code, or to insert or delete pages or portions thereof, or to alter or tamper with the code in any manner whatsoever which may cause the law of Marietta, Georgia to be misrepresented thereby.

Section 10. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 11. This ordinance shall be in force and take effect on January 31, 1979.

Adopted this 28th day of December, 1978.
Attest: /s/ BARBARA M. GOSCHA, City Clerk
/s/ ROY E. BARNES, City Attorney

/s/ J. DANA EASTHAM
Mayor

*

*

*

*

CODE OF
MARIETTA, GEORGIA

①

as approved
12/29/78
egg 1/31/79

City Charter
Related Laws
And
The General Ordinances of the City

Ordained and Published
by Order of the
Mayor and Council

PRM LAW PUBLISHERS
157 Luckie Street, N.W.
Atlanta, Georgia 30303

PART 4

215

Personnel

- Chapter 1. Personnel Rules and Regulations
- Chapter 2. Civil Service Rules and Regulations
- Chapter 3. Insurance and Retirement

CHAPTER 1

Personnel Rules and Regulations

(Reserved)

Historical Note: This chapter was derived originally from Sec. 2-64 to 2-80 of the 1961 city code. The 1961 codification was derived from Ord. No. 1392 and motions of 5/13/61 and 1/24/62, as amended by Ord. No. 2020, 9/8/71; Ord. No. 2177, 2/13/73; Ord. No. 3108, 6/12/74; Ord. No. 3127, 9/11/74; Ord. No. 3130, 10/9/74; Ord. No. 3180, 8/14/75; and Ord. No. 3218, 2/11/76.

Cross Reference: City charter, personnel power of city manager, Sec. 4.4(1) and (5); council, Sec. 4.12; Fire and police civil service, Sec. 4.13 et seq.

(A section will be included to incorporate the present ordinance by reference).

CHAPTER 2

Civil Service Rules and Regulations

Cross Reference: City charter, fire and police civil service, Sec. 4.13 et seq.; board rules and regulations to be approved by council, Sec. 4.17.

- Section 4-2001 Council adoption by ordinance.
- Section 4-2002 Applications for examination.
- Section 4-2003 Examinations.
- Section 4-2004 Eligibility list.
- Section 4-2005 Vacancies within the departments.
- Section 4-2006 Appointments to the police and fire departments.
- Section 4-2007 Promotion within the police and fire departments.
- Section 4-2008 Demotions, suspensions and discharges within the police and fire departments.
- Section 4-2009 Merit ratings.
- Section 4-2010 Rules governing police department members.
- Section 4-2011 Rules governing fire department members.
- Section 4-2012 Regulation of conduct of employees in police and fire departments.

Section 4-2001 Council adoption by ordinance.

As provided in the city charter, rules and regulations of the civil service board shall not become effective until approved by the city council. Such approval shall be evidenced by the adoption of such rules and regulations by ordinance for codification in this chapter.

Section 4-2002 Applications for examination.

(a) Application for examination must be made in writing to the clerk of the civil service board on a form provided by the department for which the applicant desires to be a member. The form must be answered fully.

(b) Applicants for the fire department shall have passed their eighteenth birthday but not yet reached their thirty-third birthday at the time of their examination.

(c) Applicants for the police department shall have passed their twenty-first birthday but not yet reached their thirty-eighth birthday at the time of their examination.

(d) Birth certificates or other proof of age must be attached to the application or official notes by a member of the department applied for.

(e) Applicants must attach a copy of their high school diploma or equivalency certificate to their application or proof of same noted on the

application by a member of the department applied for.

(f) Applicants must have 20/20 vision (may be corrected).

(g) Applicants must be of good habits and moral character. (Motion of 12/12/59, Sec. 1; Code 1961, Sec. 2-81, as amended by Ord. No. 2038, 11/10/71 and Ord. No. 3039, 9/12/73)

Section 4-2003 Examinations.

Examinations conducted by the board shall consist of:

- (1) a written examination;
- (2) a character investigation;
- (3) an oral examination; and
- (4) a rigid physical examination. (Motion of 12/12/59, Sec. 2; Code 1961, Sec. 2-82)

Section 4-2004 Eligibility list.

(a) After successful completion of all prescribed examinations, candidates shall be placed on the eligible list for the respective departments according to the final grade scored by the applicant.

(b) Applicants will be notified as to whether they passed or failed the examinations in the manner which shall be prescribed by the board. (Motion of 12/12/59, Sec. 3; Code 1961, Sec. 2-83)

Section 4-2005 Vacancies within the departments.

Upon notification in writing from the chief of the fire or police department that a vacancy exists in the respective department, the clerk of the board will submit to the chief the names and addresses of the three (3) candidates standing highest on the eligible list for each vacancy. The chief shall select a candidate or candidates from this list to fill the vacancy. (Motion of 12/12/59, Sec. 4; Code 1961, Sec. 2-84)

Section 4-2006 Appointments to the police and fire departments.

All appointments to the police or fire departments are probationary for a period of 12 months from the date of appointment. Any probationer may be discharged by the chief of his or her department within the probationary period, and the discharged probationer shall not

be entitled to a hearing before the civil service board upon the discharge. (Motion of 12/12/59, Sec. 5; Code 1961, Sec. 2-85)

219

Section 4-2007 Promotion within the police and fire departments.

(a) Promotions within the fire and police departments shall be made by the civil service board upon notification by the respective chief that a vacancy exists for that rank or rate.

(b) The respective chiefs shall recommend, from the membership of their departments, a person or persons deemed qualified to be promoted to a higher rank.

(c) The chiefs of the respective departments are authorized to employ whatever test they deem sufficient to aid them in determining if a member of their department is qualified for promotion. (Motion of 12/12/59, Sec. 6; Code 1961, Sec. 2-86)

Section 4-2008 Demotions, suspensions and discharges within the police and fire departments.

(a) The chiefs of the fire and police departments shall have authority to demote members of their departments with the consent of the board. The person so demoted may appeal the demotion to the civil service board and be given an open public hearing; provided, the person so demoted appeals in writing to the board within five (5) days after he or she is notified of the demotion.

(b) The chiefs of the fire and police departments have the authority to suspend any member of his or her department without pay for a period of 15 days, and the person so suspended shall not be entitled to a hearing before the board. Suspensions for periods longer than 15 days are given pending a hearing before the board.

(c) Members of the fire or police departments may be discharged only after they are served in writing and given an opportunity for an open public hearing. The charges must be served at least five (5) days prior to the hearing. The person against whom the charges are filed has the right to employ counsel and also the right of certiorari to the Superior Court of Cobb County. (Motion of 12/12/59, Sec. 7; Code 1961, Sec. 2-87)

Section 4-2009 Merit ratings.

The chiefs of the fire and police departments shall rate the efficiency of each member of his or her respective department once each six (6) months and shall forward said ratings to the clerk of the board for inclusion in the rated persons personnel file. (Motion of 12/12/59, Sec. 8; Code 1961, Sec. 2-88)

219

Section 4-2010 Rules governing police department members.

In addition to the restrictions outlined in the civil service provisions of the city charter, the police department chief shall post rules concerning internal operations of his or her department in a prominent place and furnish each member with a copy thereof. Such rules shall be adopted as provided in section 1-3003 of this code.

Cross Reference: City charter, civil service, Sec. 4.13 et seq.

Section 4-2011 Rules governing fire department members.

In addition to the restrictions outlined in the civil service provisions of the city charter, the fire department chief shall post rules concerning internal operations of his or her department in a prominent place and furnish each member with a copy thereof. Such rules shall be adopted as provided in section 1-3003 of this code.

Cross Reference: City charter, civil service, Sec. 4.13 et seq.

Section 4-2012 Regulation of conduct of employees in police and fire departments.

(a) It shall be unlawful for any member of the fire and police departments to consume intoxicants to any extent whatsoever while on duty or to be under the influence of intoxicants to any extent whatsoever while on duty.

(b) No member shall have any intoxicants in their quarters, lockers, in or around any public property, expressly including vehicles belonging to the city.

(c) It shall be unlawful for any member to indulge in the use of drugs or narcotics, as defined by Georgia law, whether on or off duty except on the advice of a physician and in such instances if the drugs or narcotics have been administered or taken within a period of 24 hours

immediately preceding the member reporting for duty, it shall be the duty of the member to report the same to the officer in charge of the shift on which he or she is working.

(d) Any member who is convicted of a felony or of a crime involving moral turpitude shall be subject to suspension or discharge, as hereinafter provided.

(e) No member shall violate any city ordinances of the city whether on or off duty.

(f) Members shall not disobey, ignore or fail to obey any order or command of a superior officer.

(g) No member shall speak in a disrespectful manner of any officer or other member of the department, whether on or off duty, so that respect for officers and other members of the department shall be reflected to the general public, thereby increasing public confidence in the department. This provision shall not apply to any meeting of the civil service board or mayor and council of the city, or departmental meeting where a discussion of the problems of the department is taking place.

(h) No member shall contact or discuss with intent to influence any elected public official of the state or of any political subdivision thereof, concerning any legislation, contracts or negotiations of the city, without having first obtained the permission of the civil service board in writing.

(i) Any grievance that any member of the department may have shall be first reported to his or her immediate superior, who, in turn, shall convey the complaint or grievance through the chain of command so that it shall eventually reach the head of the department, who shall report any such grievance, whether it be a violation of the civil service rules and regulations or not, to the clerk of the civil service board, and it shall be the duty of the clerk to notify each and every member of the civil service board of the receipt of the complaint.

(j) No member shall participate in any effort to "strike" or attempt to "strike," nor shall any member threaten to "strike," encourage others to "strike" or discuss a "strike" with any person whatsoever.

(k) To the end that the integrity and purpose of the civil service system may be maintained and politics kept free therefrom, no member shall discuss any of the political affairs of the city, praise or criticize any elected or appointed official of the city, except at a meeting of the

civil service board, the mayor and council of the city, or any committee meeting thereof.

(l) No member shall display or cause to be displayed, any signs, posters, writings, pamphlets, or any other writing, criticizing or commending any member or officer of the department or any official or employee of the city.

(m) No member shall make any statement or comment to any person whomsoever, concerning the operation of the department or the city, without first having obtained permission from the civil service board in writing.

(n) All members of the department shall comply with any and all rules and regulations now, or which hereafter may be placed in effect, by the department head. The rules and regulations shall be posted in a prominent place by the department head. Any member or members contending that any rule or regulation of the department head is illegal or unjust shall so notify the civil service board within 60 days after the posting of the rule or regulation. If the complaint is not made to the civil service board as herein provided, any member charged subsequently with a violation of the rule shall not be permitted to avail himself or herself of the defense of the inequity of that rule, except in those instances where the rule is in violation of the federal or state constitution or federal or state laws.

(o) No member shall commit any immoral or indecent act or conduct himself or herself in such a manner as to reflect discredit on the department or the city.

(p) No member shall neglect or shirk any duty.

(q) It shall be the duty of each officer and member of the department to report any violation of these rules and regulations to his or her superior, and if a member fails to report a breach of these rules and regulations by another member, he or she shall be subject to suspension or discharge, as hereinafter provided.

(r) Any member shall report any violation of these rules and regulations to the clerk of the civil service board if the member has previously reported the violation to his or her superior as hereinbefore provided, and the complaint has not reached the clerk of the civil service board within 10 days after it has been reported to the member's superior officer. Any officer, including the department head; who fails to relay any complaint received by that officer on violations of these rules to the clerk of the civil service

board, shall be subject to suspension or discharge.

(s) Any violation of any of these rules or regulations by any member or officer of any department covered by the civil service system of the city, shall be subject to suspension or discharge, after notice and hearing as provided by the city charter, and after a determination that such rule and regulation has been violated. A vote of at least two (2) members of the civil service board that a rule has been violated shall be required. (Motion of 9/10/66; Code 1961, Sec. 2-91)

222