



CIVIL SERVICE BOARD
CHARTER AND REGULATIONS

UPDATED IN APRIL 2022

**PLEASE CONTACT THE DIRECTOR OF HUMAN RESOURCES AND
RISK MANAGEMENT IF YOU HAVE ANY QUESTIONS REGARDING
THIS MANUAL.**

TABLE OF CONTENTS

CITY CHARTER

ARTICLE IV: OFFICERS AND PERSONNEL

DIVISION 2: FIREFIGHTER AND POLICE OFFICER CIVIL SERVICE

Section 4.13 - Established. 2

Section 4.14 - Definitions. 2

CIVIL SERVICE BOARD

Section 4.15 - Membership; terms; vacancies; training. 3

Section 4.16 - Oath. 6

Section 4.17 - Chairperson; meetings; quorum. 6

Section 4.18 - Meetings open to public; minutes. 7

Section 4.19 - Compensation. 7

Section 4.20 - Political activity by Civil Service Employees. 7

Section 4.21 - Effect of recommendation for employment. 7

Section 4.22 - Reserved. 8

Section 4.23 - Penalty for violations by Civil Service Employee. 8

Section 4.24 - Removal of Civil Service Board Member. 8

Section 4.25 - Civil Service Rules and Regulations. 9

Section 4.26 - Hearings. 10

Section 4.27 - Witness's oath. 11

Section 4.28 - Records of departments; availability. 11

Section 4.29 - Right of certiorari. 11

Section 4.30 – Initial work test period. 11

MUNICIPAL CODE OF MARIETTA

CHAPTER 4-8: CIVIL SERVICE RULES AND REGULATIONS

4-8-010 Definitions. 12

4-8-020 Causes for appeal; Non-grievable actions. 13

4-8-030 Grievance procedure. 14

4-8-035 Pre-Hearing Procedure. 16

4-8-040 Hearing procedure. 17

4-8-050 Rendering the decision. 19

4-8-060 Request for Continuance of Appeal Hearing or Stay of Proceedings 20

4-8-070 Training. 21

4-8-080 Legal assistance. 22

4-8-085 Miscellaneous considerations. 22

CITY CHARTER

ARTICLE IV: OFFICERS AND PERSONNEL

DIVISION 2: FIREFIGHTER AND POLICE OFFICER CIVIL SERVICE

Editor's note(s)—Ord. No. 8079, § 1, adopted Mar. 13, 2019, amended Div. 2 in its entirety to read as herein set out. Former Div. 2, §§ 4.13-4.30, pertained to firemen and policemen civil service. The historical notations of the former §§ 4.13-4.30 have been preserved for reference purposes.

Section 4.13 Established.

(a) Purpose. There is hereby established a Marietta Police and Fire Civil Service System for the purpose of providing Civil Service Employees the opportunity to seek administrative review of adverse actions constituting cause of appeal under the Civil Service Rules and Regulations. All Certified Firefighters of the Fire Department below the rank of deputy chief, upon successfully completing their initial work test period, and all Certified Peace Officers of the Police Department below the rank of deputy chief, upon successfully completing their initial work test period, shall be Civil Service Employees under the Marietta Police and Fire Civil Service System.

(b) Intent. Upon achieving such status, Civil Service Employees shall thereafter remain and continue their respective employment as municipal officers and employees during satisfactory performance and obedience to City laws and ordinances and such reasonable rules and regulations as may be adopted by the City Council as hereinafter provided; however, nothing herein contained shall be construed to prevent or preclude the Chiefs of the Fire and Police Departments from taking proper adverse action, up to and including termination, against any Civil Service Employee in his/her department, for cause, subject to the Civil Service Employee's right hereunder to seek administrative review as herein provided.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 5658, 2/12/97; Ord. No. 6068, 12/8/1999, § 1; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.14 Definitions.

The following definitions, as used in this division, shall apply:

Civil Service Employees. All Certified Firefighters of the Fire Department below the rank of deputy chief who have successfully completed an initial work test period and all Certified Peace Officers of the Police Department below the rank of deputy chief who have successfully completed an initial work test period.

Certified Firefighter. Any duly sworn firefighter who is currently certified by the Georgia Firefighter Standards and Training Council (or any successor agency charged by law with regulating, certifying, and/or licensing firefighters in the State of Georgia) as having met and as being in compliance with all laws, rules, and/or regulations required for employment in the fire service in the State of Georgia.

Certified Peace Officer. Any duly sworn law enforcement or peace officer who is currently certified by the Georgia Peace Officer Standards and Training Council (or any successor agency charged by law with regulating, certifying, and/or licensing law

enforcement or peace officers in the State of Georgia) as having met and as being in compliance with all laws, rules, and/or regulations required for employment in the field of law enforcement in the State of Georgia.

Clerk of the Civil Service Board. The City Clerk or his or her designee, who shall be responsible for certifying the eligibility of each candidate for appointment or reappointment to the Civil Service Board, for coordinating and providing administrative assistance with Civil Service Board elections, including certifying election results, for receiving filings and serving notices on behalf of the Civil Service Board, for scheduling and posting notice of Civil Service Board meetings, including hearings, in accordance with the open meetings laws of the State of Georgia, for taking and maintaining minutes of such meetings, for scheduling training for Board members and maintaining training records, and for performing such other tasks as set forth in this division and in the Civil Service Rules and Regulations.

Immediate Family Member. Includes spouse, son, daughter, father, mother, brother, sister, half-brother, half-sister, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 5658, 2/12/97; Ord. No. 6068, 12/8/1999, § 2; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

CIVIL SERVICE BOARD

Section 4.15 Membership; terms; vacancies; training.

(a) Appointment of Members. The Civil Service Board for the City of Marietta shall consist of five members at all times and the members shall be appointed by the City Council as hereinafter provided. All five appointments shall be entered on the minutes of the City Council. The Post 1 and Post 3 members of the Civil Service Board shall be appointed by the City Council for the City of Marietta, as hereinafter provided. The Post 2 and Post 4 members shall also be appointed by the City Council, and the City Council shall consider, but not be bound by, nominations made as a result of elections, as hereinafter provided, by Civil Service Employees of the Fire and Police Departments.

(b) Election for Nominations of Post 2 and Post 4 Members. The Post 2 and Post 4 members shall each serve pursuant to appointment as specified herein by the City Council following a nomination by election by a plurality of the Civil Service Employees of the Fire and Police Departments. Said election shall be by secret ballot conducted by the Clerk of the Civil Service Board who shall certify the results to the City Council. The City Council shall consider, but shall not be bound by, nominations made as a result of said elections.

(c) Nomination of Post 5 Member. The four members selected to fill Post 1, Post 2, Post 3, and Post 4 on the Civil Service Board may nominate an eligible person to fill Post 5 by majority vote during the Board's regular January meeting. The Board's

nominee shall be identified in the minutes and presented to the City Council by the Clerk of the Board. The Board's nominee shall be considered by the City Council for appointment as the fifth member of the Civil Service Board, but the City Council is not bound to the nomination and may appoint any otherwise eligible person to Post 5. In the event that the members of the Post 1, Post 2, Post 3, and Post 4 are unable, by majority vote, to nominate a fifth member, within thirty (30) days after their appointment, the City Council shall proceed to appoint an otherwise eligible person to the Post 5 position.

(d) Terms of Civil Service Board Members. The five members of the Civil Service Board shall be appointed as follows for the terms set forth herein:

Post 1: This member shall serve for a three-year term which will begin on January 1 and end on December 31 of the specified term.

Post 2: This member shall serve for a three-year term which will begin on January 1 and end on December 31 of the specified term.

Post 3: This member shall serve a three-year term which will begin on January 1 and end on December 31 of the specified term.

Post 4: This member shall serve for a three-year term which will begin on January 1 and end on December 31 of the specified term.

Post 5: The initial and all subsequent terms served by this member shall be one year which will begin on February 1 and end on January 31 of the following year.

At the expiration of the term of each member, the appointment shall be made thereafter by the same method and upon the same terms and conditions as provided herein and each Post member shall serve until a successor has been appointed by the City Council.

(e) Eligibility. No person shall be eligible to be a member of said Board who:

(1) holds any elected governmental position, is employed by a municipal or county government, or was previously employed by the City less than three years prior to commencement of the term to which appointment is sought;

(2) is less than 25 years of age;

(3) is not a bona fide resident and qualified voter of the City;

(4) has an Immediate Family Member serving in an elected or appointed position with the City;

(5) has an Immediate Family Member who is currently employed by the City;

(6) previously served on the Civil Service Board but was removed for cause less than five years earlier (provided, however, that if any nominee was removed for cause more than five years earlier, the Clerk of the Civil Service Board shall notify the City Council, in writing, of such removal and the reasons for same prior to its vote on the appointment);

(7) previously was employed by the City but was involuntarily separated for disciplinary reasons or resigned or retired in lieu of discipline or while under investigation; or

(8) previously served as a firefighter or law enforcement officer but had his/her certification revoked for disciplinary reasons or for reasons relating to misconduct by the Georgia Firefighter Standards and Training Council (or any successor agency), the Georgia Peace Officer Standards and Training Council (or any successor agency), or any similar state or federal agency responsible for regulating, certifying, or licensing firefighters or law enforcement officers in other jurisdictions.

(f) Vacancies. In the event of a vacancy upon said Board caused by death, resignation, removal, or other cause, the vacancy shall be filled as provided herein and the person filling such vacancy shall be appointed to serve for the unexpired term.

(g) Training.

(1) The City's Director of Human Resources and Risk Management, or his or her designee, shall attend all regular and called meetings of the Civil Service Board. Based on his or her own observations and in consultation with the Attorney for the Board, as well as in due consideration of any requests from the Board, the Director of Human Resources and Risk Management shall identify necessary and appropriate areas of annual training for the Board members and, with the assistance of the Clerk, shall schedule same.

(2) Except as provided below, all training provided to the Civil Service Board shall be attended by each member of the Board.

(3) In addition, the Director of Human Resources and Risk Management, in consultation with the Attorney for the Board, shall design an appropriate initial orientation program for newly appointed members of the Civil Service Board to be attended by each new member within the first twelve (12) months of his or her initial appointment. Other members of the Civil Service Board may, but need not, attend the initial orientation program.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 5506, 11/8/95; Ord. No. 5658, 2/12/97; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.16 Oath.

Every person who shall be appointed or reappointed as a member of such Civil Service Board shall, within 15 days after such appointment or reappointment, qualify by taking oath that he or she is eligible for said office and will honestly and faithfully discharge the duties of the office to the best of his or her ability without fear, favor, or partiality, and such other oath as may be required by the charter of the City and the laws of the State for public officials. Such oath shall be administered by any person authorized by law to administer oaths and a copy thereof filed with the Clerk of the Board.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.17 Chairperson; meetings; quorum.

(a) Chairperson of the Civil Service Board. At a regular meeting held in January of each year, the Civil Service Board, in addition to transacting any other appropriate business, shall elect by a majority of the Board one (1) of its members as Chairperson, who shall hold office as such Chairperson at the pleasure of the Board. The duties of the Chairperson shall be to preside at all regular and special meetings and hearings of the Board, call special meetings of the Board upon proper notice, and perform such other duties as may be prescribed from time to time by the City Council or the Board.

(b) Civil Service Board Meetings. In addition to the regular January meeting, upon proper notice, the Civil Service Board may hold special, adjourned, or called meetings at any time that the same may be called by the Chairperson of said Board or by any two (2) members thereof. All such meetings shall be held in City Hall or in such place as the City Council holds its meetings.

(c) Notice to Board Members of Meetings. In the case of all special or called meetings of the Board, the Clerk of said Board shall issue a notice of the special or called meeting, stating time, place, and subject, and said notice shall be served personally upon each member of the Board or left in their usual places of residence at least 24 hours before the time of the meeting. Provided, however, if a member absents himself or herself from the city for more than 30 continuous days, a meeting may be duly and regularly held upon giving the requisite notice to the remaining members of the Board. Only matters set forth in the notice of the special or called meeting shall be considered at the meeting except as may otherwise be permitted by State law.

(d) Quorum. At any regular, special, or called meeting any three (3) members of the Board shall constitute a quorum for the transaction of business and the votes of any three (3) members of the Board shall be sufficient to transact its business.

(Ord. No. 5402, 3/8/95; Sec. 1; Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.18 Meetings open to public; minutes.

All meetings of the Civil Service Board, including hearings, shall be conducted in accordance with the open meetings laws of the State of Georgia, including all requirements relating to notice, agendas, and the recording of minutes (which shall be maintained in the office of the Clerk of the Board and made available to the public upon request).

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.19 Compensation.

The compensation of the members of the said Civil Service Board and the Clerk of such Board shall be established by ordinance by the City Council. The Council shall provide for the payment of the compensation of the members of said Civil Service Board and the Clerk of such Board and the reimbursement of all expenses of said Board. If such expenses other than compensation are approved by the Council, said expenses shall be provided in the annual budget for the estimation and appropriation of a sufficient amount to cover same.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.20 Political activity by Civil Service Employees.

(a) The political activity of Civil Service Employees is subject to the same restrictions and limitations as are imposed on all employees of the City of Marietta/BLW in the Personnel Rules and Regulations; provided, however, that said restrictions and limitations shall not be interpreted or applied in any manner inconsistent with federal or state constitutional or statutory law.

(b) No Civil Service Employee or other Certified Firefighter or Certified Peace Officer employed by the City shall in any way undertake or threaten to degrade, discharge, or demote, or in any manner change the official rank or pay of any Civil Service Employee, or promise or threaten to do so, for giving or withholding or neglecting to make any contribution of money or any valuable thing for any person, party or for any political purpose whatsoever, or for the support of any candidate. No Civil Service Employee shall receive any promotion as a reward for his or her support of any candidate or political party, and no Civil Service Employee shall be reduced in rank or pay or discharged for his or her failure to support any candidate for political office.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.21 Effect of recommendation for employment.

No recommendation made by any elected or appointed official of the City on behalf of any person applying for employment with the Fire or Police Departments shall be considered except as the same may apply to the general moral character of the applicant. Likewise, no applicant for employment shall be hired based solely on any

request made by any officer or official, whether said officer or official be a City, County, State or national officer or official.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.22 Reserved.

Section 4.23 Penalty for violations by Civil Service Employee.

Any Civil Service Employee who shall willfully, or through culpable negligence violate any provisions of this division, or any criminal statute of this State, or the Civil Service Rules and Regulations, the Personnel Rules and Regulations, or any other ordinance of this City, or the standards of conduct, standard operating procedures (SOPs), and directives of his or her department, shall be subject to disciplinary action up to and including termination of employment.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 8265, 4/13/2022, § 1)

Section 4.24 Removal of Civil Service Board Member.

(a) Removal Due to Non-Attendance. If any member of the Civil Service Board shall miss and fail to attend any two consecutive meetings of the Board duly and properly called as herein provided, the Clerk of the Board shall certify same, in writing, to the City Council. Any member of the Civil Service Board may make a recommendation to the City Council regarding the removal or non-removal of the non-attending member, which recommendation should be presented in writing to the Clerk, who shall thereafter submit it to the Council. Upon receipt of the Clerk's certification of non-attendance or as otherwise provided in sub-paragraph (e) of this Section 4.24, the Council, at any regular or special meeting, and with or without a hearing, may by resolution declare said member's position on the Board to have been vacated. In such event, said vacancy shall be filled as provided in Section 4.15.

(b) Removal Due to Failure to Complete Training. If the training required by Section 4.15(g) of this Charter is not completed in accordance with the Civil Service Rules and Regulations, the Clerk of the Board shall certify same, in writing, to the City Council. Any member of the Civil Service Board may make a recommendation to the City Council regarding the removal or non-removal of the non-compliant member, which recommendation should be presented in writing to the Clerk, who shall thereafter submit it to the Council. Upon receipt of the Clerk's certification of non-compliance or as otherwise provided in sub-paragraph (e) of this Section 4.24, the City Council, at any regular or special meeting, and with or without a hearing, may by resolution declare such member's position on the Board to have been vacated. In such event, said vacancy shall be filled as provided in Section 4.15.

(c) Removal Due to Ineligibility or Loss of Eligibility. If a significant question arises as to whether a given member of the Board (i) was ineligible at the time of his or her appointment or reappointment to serve on the Board pursuant to any provision of Section 4.15(e) or (ii) has lost eligibility for such service under Section 4.15(e)(1), (3),

(4) or (5), the City Manager or his/her designee shall notify said member of same, in writing, and shall therein inform the member of his/her right to appeal the matter to the City Council pursuant to Section 4.24(d) of this division by submitting such request, in writing, to the Clerk of the Board within seven (7) days of his or her receipt of such notice. In such event, the Clerk shall, in turn, promptly forward said request to the City Council, who shall thereafter proceed as provided in Section 4.24(d). In the absence of a timely request for hearing, the Clerk shall so notify the Council and said member's term on the Board shall be deemed to have been vacated. In such event, said vacancy shall be filled as provided in Section 4.15.

(d) Removal for Cause. Any member of the Civil Service Board shall be subject to removal for cause including, but not limited to, violation of any of the provisions of this division or the Civil Service Rules and Regulations adopted hereunder. Removal for cause shall be by a majority vote of the Council after a full hearing before same. The affected Civil Service Board member shall be served with written notice of the charges against him or her no less than five (5) days before the date set for such hearing. Notwithstanding the foregoing, the Council's vote on the affected Board member's removal may be conducted without a hearing if the member expressly waives his or her right to a hearing, in writing, within the five-day notice period above-stated.

(e) No Restriction on City Council's Discretion to Act. Nothing in this Section is intended, or shall be interpreted or applied, as imposing any restrictions on the City Council's right to make any inquiry or take any other appropriate action, including the initiation of removal proceedings, upon its receipt of credible information – whether from the Clerk, the Civil Service Board, or any other reliable source – implicating a Civil Service Board member's eligibility, his or her compliance with the attendance and training requirements of this division, or the existence of cause for his or her removal.

(f) Copies of Notices. Copies of all notices, certified or otherwise, submitted to the City Council by the Clerk in accordance with any provision of this Section 4.24 shall be served by the Clerk on each member of the Board (including the affected Board member), the Attorney for the Board, and the Director of Human Resources and Risk Management.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.25 Civil Service Rules and Regulations.

(a) The Civil Service Board shall make, amend, supplement, or rescind rules and regulations as may be necessary and appropriate to carry out the purposes of this division and for:

- (1) Defining causes for appeal and non-grievable actions.
- (2) Establishing the grievance process.

(3) Establishing hearing procedures (including, but not limited to, provisions addressing the order and burden of proof, evidentiary standards and rulings, the administration of oaths, the granting of continuances, and preparation and issuance of the Board's decision).

(4) Initial orientation training for all newly appointed members of the Civil Service Board and annual training for all Board members.

(5) Such other matters consistent with the provisions of this division as the Board may deem necessary and appropriate to efficiently and effectively fulfill its duties and responsibilities hereunder.

(b) Notwithstanding the foregoing, no rule or regulation shall prevent the chiefs of the fire and police departments from taking proper adverse action, for cause, against any Civil Service Employee in their respective departments, up to and including termination, subject to the Civil Service Employee's right hereunder to seek administrative review. Furthermore, no rule or regulation shall restrict the chiefs of the fire and police departments in the proper exercise of their authority to suspend without pay any member of their respective departments for cause for periods not to exceed 10 days (112 hours for firefighters) without a hearing by the Civil Service Board.

(c) All such rules and regulations, including any amendment, supplementation, or rescission or such rules and regulations, shall be subject to approval by the Council and shall only be effective on and after the date of such approval. Until rules and regulations are adopted as stated above, the current Civil Service Rules and Regulations, set forth in Part 4 of the Municipal Code of Marietta, shall remain in full force and effect.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.26 Hearings.

Any Civil Service Employee as defined in this division who is the subject of an adverse action constituting cause of appeal under the Civil Service Rules and Regulations may either request a hearing before the Civil Service Board or submit a grievance/appeal through their Chief/City Manager channels in accordance with Article 4-4-22 of the Personnel Rules and Regulations.

(Ord. No. 5402, 2/8/95, Sec. 2; Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 5348, 9/21/94, Sec. 1; Ord. No. 5658, 2/12/97; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.27 Witness's oath.

In the course of any hearing or other proceeding properly before the Civil Service Board, any member thereof, as well as the Attorney for the Board, shall have the power to administer oaths to any witness.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.28 Records of departments; availability.

Except to the extent prohibited by law, the Civil Service Board shall at all times have access to all public records and data of the fire and police departments of the City, and on request to either the Chief of the Fire Department, the Chief of the Police Department or the City Clerk or Department of Human Resources and Risk Management, must be furnished with any such public record information as the Board may deem necessary to efficiently and effectively fulfill its duties and responsibilities hereunder.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 5658, 2/12/97; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.29 Right of certiorari.

After a final decision is rendered by the Civil Service Board on an appeal in accordance with the Civil Service Rules and Regulations, any party to the hearing may apply for certiorari to the Superior Court of Cobb County pursuant to the Georgia Certiorari Act.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

Section 4.30 Initial work test period.

All newly hired members of the Fire and Police Departments shall be employed pursuant to an initial work test period of eighteen (18) months from date of appointment, as determined by the City Council and set forth in Section 4-4-6-070 of the City's Personnel Rules and Regulations. The Chiefs may take adverse action, up to and including discharge, against any employee serving an initial work test period within their respective departments and such employee shall not be entitled to appeal such adverse action to the Civil Service Board. Working test periods are subject to extension in accordance with Section 4-4-6-070(C) of the City/BLW's Personnel Rules and Regulations.

(Ord. No. 5293, 4/13/94, Exh. A; Ord. No. 6068, 12/8/1999, § 3; Ord. No. 8079, 3/13/2019, § 1; Ord. No. 8265, 4/13/2022, § 1)

MUNICIPAL CODE OF MARIETTA

CHAPTER 4-8: CIVIL SERVICE RULES AND REGULATIONS

4-8-010 Definitions.

- A. "Adverse Action" is an action taken by the Department that results in monetary loss due to disciplinary suspension without pay, disciplinary demotion, or disciplinary dismissal as provided in Article 4-4-20 of the Personnel Rules and Regulations.
- B. "Appeal" and "Grievance," including all derivative terms, are used interchangeably for purposes of this Chapter.
- C. "Appeal Hearing" shall refer to the meeting of the Civil Service Board at which the evidentiary hearing is conducted on the Civil Service Employee's Appeal from the Adverse Action.
- D. "Appellant" shall refer to the Civil Service Employee filing and pursuing the Appeal under this Chapter.
- E. "Chief" shall mean the Chief of the Marietta Police Department and the Chief of the Marietta Fire Department, as appropriate, and includes any member of the Department serving in an acting or interim capacity as Chief or designated to act on the Chief's behalf for purposes of this Chapter. A member of either Department serving in such an acting or interim capacity shall be subject to removal from such capacity with or without cause, with or without notice, and without the right to grieve or appeal such removal; provided, however, that a Civil Service Employee serving in such a capacity shall not otherwise lose his/her status as a Civil Service Employee.
- F. "Civil Service Employees" shall mean all certified firefighters, as defined in Georgia state law, of the Fire Department below the rank of deputy chief who have successfully completed an initial work test period and all certified peace officers, as defined in Georgia state law, of the Police Department below the rank of deputy chief who have successfully completed an initial work test period.
- G. "Clerk of the Civil Service Board" shall be the City Clerk or an employee of the City Clerk's Office designated by the City Clerk to serve as Clerk of the Civil Service Board as provided in Section 4.14 of the Charter.
- H. "Department" shall mean the Marietta Police Department and the Marietta Fire Department, as appropriate.
- I. "Workdays" shall mean Mondays through Fridays, excluding Saturdays, Sundays, and observed holidays as set forth in Section 4-4-16-030, regardless of the Civil Service Employee's own work schedule, while "Calendar Days" shall mean all days. If any deadline under this Chapter falls on a Saturday, Sunday, or observed holiday, then said deadline shall extend to the immediately following workday.

(Code 1978 § 4-2001; Ord. No. 5359, 9/21/94; Ord. No. 5575, 6/12/96; Ord. No. 6063, 11/10/1999, § 3; Ord. No. 7691, 10/9/2013, § 1; Ord. No. 8263, 4/13/2022, § 1)

4-8-020 Causes for appeal; Non-grievable actions.

- A. The following Adverse Actions may be cause for the filing of an Appeal by Civil Service Employee of the Department and, upon request by the Civil Service Employee, would require a formal hearing before the Civil Service Board:
1. Dismissal as provided in Section 4-4-8-050 of the Personnel Rules and Regulations.
 2. Demotion as provided in Section 4-4-20-030D(5) of the Personnel Rules and Regulations.
 3. Suspension without pay in excess of ten days (112 hours for firefighters) as provided in Section 4-4-20-030D(3) of the Personnel Rules and Regulations.
 4. Involuntary retirement; provided, however, that a retirement while under investigation, in lieu of disciplinary action, or in lieu of signing a “last chance” agreement shall not be considered “involuntary.”
- B. Notwithstanding the foregoing, non-grievable actions shall include, but not necessarily be limited to, the following:
1. Oral and written reprimands, suspensions without pay of ten days or less (112 hours or less for firefighters), and administrative leave with pay.
 2. Informal discipline or corrective action (e.g., counselings, warnings, training, etc.).
 3. Referrals to an Employee Assistance Program (EAP) and/or being required to sign a “last chance” agreement.
 4. Layoffs, furloughs, demotions, transfers, reduced work hours, position reclassifications, or other changes to a Civil Service Employee’s terms and conditions of employment due to reduction-in-force, restructuring, reorganization, lack of work, or economic, budgetary, or similar considerations.
 5. Resignations (including resignations while under investigation, in lieu of disciplinary action, or in lieu of signing a “last chance” agreement).
 6. Resignations via job abandonment as provided in Section 4-4-8-040 (unless the appeal relates to a determination by the chief or his/her designee that the Civil Service Employee lacked a valid reason for failing to report for work).

7. Any matter relating to the City/BLW's Pay and Classification Plan (including payroll deductions or withholdings, other than as resulting from suspensions without pay as provided in Section 4-8-020(A)(3) or fines of a disciplinary nature).
8. Performance reviews.
9. Non-approval of or withdrawal of approval previously granted for outside employment.
10. Changes to duties, responsibilities, assignments, shifts, and work schedules or setting of compensation, including pay increases, premium pay, overtime, and compensatory time, except in the case of disciplinary demotion.
11. Non-approval of or withdrawal of approval previously granted for the use of accrued leave, including annual leave and compensatory time, or any other employee benefit, including take-home vehicles.
12. Ordinances, resolutions, budgets, executive orders, or any other action taken by the Mayor and/or City Council or which are otherwise not within the jurisdiction or control of the City Manager or the Department.
13. Failure to promote.
14. Safety and security measures.
15. Temporary or short-term changes to the Employee's terms and conditions of employment due to emergency or other exigent circumstances.
16. Removal from a position held on an acting or interim basis.

(Code 1978, § 4-2002; Ord. No. 5359, 9/21/94; Ord. No. 5402, 3/8/95; Ord. No. 5575, 6/12/96; Ord. No. 5643, 1/8/97; Ord. No. 7691, 10/9/2013, § 1; Ord. No. 8263, 4/13/2022, § 1)

4-8-030 Grievance procedure.

- A. A Civil Service Employee with a grievance that is of such a serious nature that it cannot be handled on the department level, shall file it in the form of a written appeal with the Office of the Clerk of the Civil Service Board within seven (7) calendar days, measured from the earlier of the following events:
 1. the Civil Service Employee's receipt of official notification of the action upon which the appeal is based, or
 2. the effective date of the action.

- B. Within two (2) workdays of receipt of a written appeal, the Clerk of the Civil Service Board shall provide copies of the written appeal and any supporting documentation to the Civil Service Board, to the Attorney for the Civil Service Board, and to the Chief of the Department.
1. The Civil Service Board will meet for purposes of determining whether the Appeal presents a grievable action within fourteen (14) calendar days of its receipt of the appeal from the Clerk; provided, however, that the Chairperson may extend this deadline by up to an additional seven (7) days if necessary to accommodate the schedules of a quorum of the members of the Civil Service Board, the parties, and counsel for the parties.
 2. No formal hearing shall be held at this meeting; however, the Civil Service Employee and the Chief of the Department (or his/her designee), either directly or through their legal representatives, may appear and present argument and/or evidence in support of their respective positions during the meeting.
 3. The Civil Service Board may close the meeting and enter executive session only for purposes of discussing and deliberating on the determination. The Board's vote on the determination shall be in open session, and the decision of the Board shall be final.
 4. The Clerk of the Civil Service Board shall ensure that the meeting is conducted in accordance with the requirements of the Georgia Open Meetings Act, including those pertaining to notice, agenda, and minutes.
- C. If the Appeal is determined to present a grievable action at the meeting held in accordance with Subsection B above, the Civil Service Board shall make a reasonable effort to set the date, time, and place of the Appeal Hearing prior to adjourning the meeting; otherwise, within seven (7) calendar days of the meeting, the Clerk of the Civil Service Board, in consultation with the Board, the Attorney for the Board, the Chief of the Department and his/her legal representative, and the Appellant (or his/her legal representative), shall set a date, time, and place for the Appeal Hearing.
1. Unless otherwise agreed, in writing, by the Appellant and the Department, the hearing will be held no sooner than thirty (30) calendar days from the date of the determination of appealability.
 2. The Appeal Hearing will be scheduled such that the Civil Service Board can complete the entire appellate process within sixty (60) calendar days of the date of the determination of appealability; provided, however, that due consideration will be given to ensuring that both the Appellant and the Department are afforded a full and fair opportunity to prepare for the hearing, including arranging for the attendance of key witnesses and for

representation by their counsel of choice. If deemed necessary in light of these or similarly important considerations, the Board may extend this deadline by up to an additional thirty (30) days.

- D. Notwithstanding the foregoing, non-compliance with any deadline set forth in Subsections B or C shall have no effect on the Adverse Action under appeal or compromise the Department's right to present evidence and argument in support of the Adverse Action or to otherwise oppose the Civil Service Employee's Appeal.

(Code 1978, § 4-2003; Ord. No. 5359, 9/21/94; Ord. No. 5575, 6/12/96; Ord. No. 7691, 10/9/2013, § 1; Ord. No. 8263, 4/13/2022, § 1)

4-8-035 Pre-Hearing Procedure.

- A. To facilitate an efficient and orderly evidentiary hearing on the Appeal, the Chairperson may schedule a meeting of the Civil Service Board to precede the Appeal Hearing and serve as a pre-hearing conference for addressing any evidentiary, procedural, logistical, or other issues deemed advisable to resolve in advance of the hearing. Any party aware of such an issue or potential issue is encouraged to promptly notify, in writing, the other party and the Clerk of the Civil Service Board of same so that timely consideration can be given to whether a pre-hearing conference would be beneficial.
- B. The Chairperson may schedule a pre-hearing conference on his/her own motion, upon the request of any party, or upon the request of any member of the Civil Service Board. The Clerk of the Board shall ensure that any pre-hearing conference held pursuant to this Section is conducted in accordance with the requirements of the Georgia Open Meetings Act, including those pertaining to notice, agenda, and minutes.
- C. No later than seven (7) calendar days prior to the pre-hearing conference or, if no pre-hearing conference is scheduled, no later than seven (7) calendar days prior to the Appeal Hearing, the parties shall identify and produce to each other and to the Clerk of the Civil Service Board, copies of all exhibits they will or may introduce, together with a written witness list of any person(s) they will or may call, and identify, in writing, any other evidence they will or may present at the Appeal Hearing.
 - 1. Absent good cause, no witness may testify and no exhibit or other evidence may be introduced at the Appeal Hearing, unless timely identified/produced as provided herein.
 - 2. No later than three (3) calendar days prior to the pre-hearing conference or, if no pre-hearing conference is scheduled, no later than three (3) calendar days prior to the Appeal Hearing, the parties shall submit in writing, to each other and to the Clerk, any objections they may have to any witnesses, exhibits, or other evidence identified/produced as provided herein.

- D. To facilitate the availability of a witness(es), the Chairperson, upon the written request of any party made no later than the time witnesses are identified as provided in subsection C and subject to the resolution of any objection(s) as provided in subsection C(2), will sign and issue a Notice of Civil Service Board Hearing and Request for Appearance of Witness form(s), requesting the presence of a witness(es) at the Appeal Hearing.
1. The requesting party shall be responsible for delivery of the form(s) to the witness(es) and for any other steps necessary to secure his/her/their attendance at the Appeal Hearing (including providing notice of any continuance).
 2. Except as provided above, neither the Chairperson nor any other member of the Civil Service Board shall become involved in any effort on the part of a party to compel, secure, or otherwise arrange the attendance of a witness.
- E. Both the Appellant and the Department may be represented by legal counsel at their own expense; however, all attorneys should provide notice of their involvement in the Appeal to the other party and to the Clerk of the Civil Service Board within twenty-four (24) hours of being retained.

(Ord. No. 8263, 4/13/2022, § 1)

4-8-040 Hearing procedure.

The following procedures shall prevail at the Appeal Hearing before the Civil Service Board, and the proceedings shall be as informal as is compatible with justice:

- A. The Clerk of the Civil Service Board shall ensure that the hearing is conducted in accordance with the requirements of the Georgia Open Meetings Act, including those pertaining to notice, agenda, and minutes. Once the record is closed by the Chairperson as provided below, the Board may convene an executive session for purposes of conducting its deliberations on the Appeal but may receive no additional evidence or argument while in executive session.
- B. The Clerk of the Civil Service Board shall make all necessary arrangements for the Appeal Hearing to be taken down/recorded by a duly licensed/certified court reporter. If so directed by the Chairperson or by majority vote of the Civil Service Board, a court reporter may similarly be retained for any other meeting of or other proceedings before the Board. In no event, however, will the court reporter (1) prepare a transcript of any such hearing, meeting or other proceedings unless expressly directed by the Chairperson or by majority vote of the Board or (2) attend or otherwise record or transcribe any properly closed meeting of the Civil Service Board, including, but not limited to, the Board's post-hearing deliberations.
- C. The Civil Service Board retains the sole discretion whether to require or allow opening statements and/or closing arguments at the Appeal Hearing, including

whether to require or allow post-hearing briefs and/or proposed findings and conclusions in lieu of or in addition to closing arguments. The Board also retains the sole discretion to set reasonable time limits on opening statements (if any), closing arguments (if any), witness testimony, and the overall presentation of each party's case. In exercising its discretion in this regard, the Board will give due consideration to providing the parties with fair and reasonable opportunities to present their respective cases.

- D. The order of proof during the Appeal Hearing shall be as follows:
1. The Department bears the burden of proof at the hearing and, as such, shall first present its evidence in support of the action from which the Appeal is taken.
 2. The Appellant shall then present evidence in support of his/her Appeal.
 3. The parties may present, examine, and cross-examine witnesses and support their respective positions through the submission of pertinent documents and other evidence. In addition, the Civil Service Board may interrogate both parties and all witnesses to obtain information it deems relevant to resolution of the Appeal.
 4. The Board will allow each party to present pertinent rebuttal evidence.
- E. All witnesses presenting testimony at the Appeal Hearing shall do so under oath or affirmation. The Attorney for the Civil Service Board or any member of the Board is authorized to swear witnesses and administer oaths in any matter coming before the Board substantially as follows: "Do you solemnly swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?"
- F. During the Appeal Hearing, the Attorney for the Civil Service Board shall be responsible for making preliminary evidentiary rulings, including rulings regarding admissibility and such issues as the scope, relevance, or duration of witness testimony.
1. The Attorney for the Civil Service Board may issue preliminary evidentiary rulings on his/her own initiative or in response to an objection, request, or motion by a party or by any member of the Board and may make reasonable inquiries or request offers of proof to facilitate his/her rulings.
 2. Evidence, including witness testimony, may be excluded on the grounds that it is irrelevant, cumulative, unduly prejudicial in comparison to its evidentiary value, inherently unreliable, or otherwise inappropriate in light of the purpose of the Appeal Hearing.

3. Any member of the Civil Service Board may request further discussion of a preliminary evidentiary ruling made by the Attorney for the Board and any such ruling may be modified or reversed by majority vote of the Board.
 4. Strict adherence to formal rules of evidence shall not be required; instead, evidentiary rulings will be based on a flexible, non-technical application of general evidentiary rules and principles, with primary emphasis placed on the reliability and relevance of the proffered evidence to the issues in the Appeal.
- G. After the Department and the Appellant have rested their cases (or have had a full and fair opportunity to present their cases as determined by majority vote of the Board), the Chairperson will declare the record closed.
- H. After the record is closed, and following closing arguments (if any), the Board may close the hearing for purposes of conducting deliberations in executive session. The Board may suspend deliberations to prepare a written Decision and reconvene in executive session on a later date to review and finalize the Decision; provided, however, that the vote to adopt the Decision must be conducted in open session.

(Code 1978, § 4-2004; Ord. No. 5359, 9/21/94; Ord. No. 5575, 6/12/96; Ord. No. 7691, 10/9/2013, § 1; Ord. No. 8263, 4/13/2022, § 1)

4-8-050 Rendering the decision.

- A. After due consideration, the Civil Service Board will render its Decision within thirty (30) calendar days of the conclusion of the hearing. The written Decision shall be delivered to the Clerk of the Board, who shall be its custodian, and who shall serve copies on all parties within two workdays. The Clerk may serve copies of the Decision via U.S. Mail, electronic mail, or any other reliable method of delivery.
- B. In deliberating upon and reaching its Decision, the Board shall apply a “preponderance of the evidence” standard. This standard is met as to a particular allegation or charge if the evidence supports a determination that the allegation or charge is more likely to be true than not.
- C. In rendering its Decision, the Board may affirm, reverse, or modify the action of the Department. Except as provided below, such Decision by the Civil Service Board shall be final.
- D. Alternatively, the Board may remand the matter to the Department for reconsideration in light of any specific facts or circumstances identified by the Board in its Decision as the grounds or reason(s) for the remand. In the event of such a remand:
 1. The Department shall have five (5) workdays from remand, or such additional time as the parties may agree or the Board for good cause may allow in which to reconsider the Adverse Action and notify in writing the

Appellant and the Board, through the Clerk, of the result of such reconsideration. Upon reconsideration, the Department may, within its discretion, withdraw, modify, or sustain the Adverse Action.

2. The Appellant shall have three (3) workdays from the Department's notice, or such additional time as the parties may agree or the Board for good cause may allow in which to notify in writing the Department and the Board, through the Clerk, of whether he/she accepts the result of the Department's reconsideration of the Adverse Action.
 3. In the event the Appellant does not accept the result of the Department's reconsideration, the Board shall meet within fifteen (15) calendar days to return to executive session and resume deliberations on whether to affirm, reverse, or modify the Adverse Action of the Department (whether or not said Adverse Action was modified on remand) as provided in Subsection A above. The Board may, but need not, entertain additional argument from the parties or their legal representatives but shall not, absent exceptional circumstances, reopen the Appeal Hearing.
 4. The Clerk of the Civil Service Board shall ensure that any meeting held in accordance with Subsection D(3) of this Section is conducted in accordance with the requirements of the Georgia Open Meetings Act, including those pertaining to notice, agenda, and minutes.
- E. Notwithstanding the foregoing, non-compliance with any deadline set forth in Subsections A and D(3) of this Section shall have no effect on the Adverse Action under appeal or compromise the Department's right to present evidence and argument in support of the Adverse Action or to otherwise oppose the Appeal.

(Code 1978, § 4-2005; Ord. No. 5359, 9/21/94; Ord. No. 5575, 6/12/96; Ord. No. 7691, 10/9/2013, § 1; Ord. No. 8263, 4/13/2022, § 1)

4-8-060 Request for Continuance of Appeal Hearing or Stay of Proceedings.

A continuance of an Appeal Hearing may be granted by the Civil Service Board under the following circumstances:

1. A written request signed by both the Appellant and the Department or their respective legal representatives verifying their agreement to the continuance is received by the Clerk to the Civil Service Board prior to the hearing;
2. In the absence of an agreement, the requesting party shows good cause in writing for such continuance and the written request is received by the Clerk and by the other party prior to the Appeal Hearing; or
3. On its own motion if a quorum of the Civil Service Board is unavailable or for any similarly compelling reason.

- B. If a continuance is granted, the Civil Service Board will reschedule the date, time and place of the Appeal Hearing and the Clerk of the Board shall promptly notify all parties of same. The continuance should be for no longer than thirty (30) days from the initial date of the Appeal Hearing; provided, however, that non-compliance with this deadline shall have no effect on the Adverse Action under appeal or compromise the Department's right to present evidence and argument in support of the Adverse Action or to otherwise oppose the Appeal.
- C. A second continuance will only be granted for exceptional circumstances, such as where the need for the continuance could not have been reasonably anticipated by, or is beyond the control of, the requesting party. Where the second continuance is requested by the Appellant and both the Civil Service Board and the Department are ready, willing, and able to proceed with the Appeal Hearing as scheduled, the Board may condition granting the second continuance on the Appellant's stipulation that the accrual of his/her backpay is tolled from that point forward.
- D. Any request for continuance, whether or not agreed upon by the parties or opposed, shall be reviewed by the Civil Service Board in accordance with the considerations described in Section 4-8-030C(2) of the Civil Service Rules and Regulations.
- E. The Civil Service Board shall have the authority and discretion to grant a stay of proceedings of up to thirty (30) days for good cause shown (e.g., to allow the parties to attempt to negotiate a compromise resolution of the Appeal). A stay may be granted under the same circumstances as a continuance as set forth in Subsections A(1), A(2), and A(3) of this Section.

(Code 1978, § 4-2006; Ord. No. 5359, 9/21/94; Ord. No. 5575, 6/12/96; Ord. No. 7691, 10/9/2013, § 1; Ord. No. 8263, 4/13/2022, § 1)

4-8-070 Training.

- A. The Director of Human Resources and Risk Management shall prepare an appropriate two (2) hour orientation program to be presented to each Civil Service Board member within the first twelve (12) months of his/her appointment. This orientation program shall be considered training for purposes of Section 4.15(g) of the City Charter.
- B. The Director of Human Resources and Risk Management and/or the Attorney for the Civil Service Board, or their respective designees, shall provide, or make the necessary arrangements for, all members of the Board to receive a minimum of two (2) hours of training per year on hearing procedures and/or any other area(s) determined in accordance with Section 4.15(g) of the City Charter.
- C. The Clerk of the Civil Service Board shall ensure that the training is conducted in accordance with the requirements of the Georgia Open Meetings Act, including those pertaining to notice, agenda, and minutes.

(Code 1978, § 4-2007, Ord. No. 5508, 11/8/95; Ord. No. 5575, 6/12/96; Ord. No. 7191, 6/11/2008, § 1; Ord. No. 7691, 10/9/2013, § 1; Ord. No. 8263, 4/13/2022, § 1)

4-8-080 Legal assistance.

The Civil Service Board shall recommend to the City Council the name of an attorney with employment law experience to provide legal assistance to the Civil Service Board. The Council may appoint the attorney recommended by the Civil Service Board, if any, or some other attorney deemed qualified by the Council to hold such position. The appointed attorney shall serve at the pleasure of the City Council and may be removed from this appointment by the Council. The appointed attorney shall attend all meetings and hearings of the Civil Service Board as directed.

(Ord. No. 5643, 1/8/97; Ord. No. 7691, 10/9/2013, § 1; Ord. No. 8263, 4/13/2022, § 1)

4-8-085 Miscellaneous considerations.

- A. Ex parte communications with members of the Civil Service Board concerning the subject matter of an Appeal are prohibited.

- B. In presiding over any meeting, hearing or other proceedings of the Civil Service Board, the Chairperson shall preserve order and decorum and, if necessary, shall take any lawful steps he/she reasonably deems warranted or appropriate to resolve any disruption, interference, or other factor impeding the purpose or undermining the integrity of the civil service process.

(Ord. No. 8263, 4/13/2022, § 1)