



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Motion Signature

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**File Number:** 20180903

### **Amending Consolidated Retirement Plan**

Approval of an ordinance from the Pension Board amending Article III, Section 1 of the Consolidated Retirement Plan for the Employees of the City of Marietta, Georgia (Exhibit B to Chapter 4-12), regarding the definition of participation.

*Second reading*

**Date** October 10, 2018

A handwritten signature in blue ink that reads "R. Steve Tumlin, Jr." written over a horizontal line.

R. Steve Tumlin, Jr., Mayor

A handwritten signature in blue ink that reads "Stephanie Guy" written over a horizontal line.

Stephanie Guy, City Clerk

AN ORDINANCE

**AMENDING the Consolidated Retirement Plan for the Employees of the City of Marietta, Georgia (Section 4-12-6-010 et seq.), by correcting the definition of participation.**

**NOW THEREFORE, THE COUNCIL OF THE CITY OF MARIETTA HEREBY ORDAINS:**

**Section 1.** That Section 4-12-6-010, Exhibit B to Chapter 4-12, also known as Ordinance 4532, the “Consolidated Retirement Plan for the Employees of the City of Marietta, Georgia,” Section 1 of Article III Participation, shall be amended so that it shall read as follows:

**“Section 1. Eligibility for participation.**

Each employee who was employed by the city on the March 1, 1987, effective date of this plan, and who elected to participate in the plan became a participant in this plan on the effective date, provided he was then in active service with the city or on an authorized leave of absence.

Each elected or appointed member of the governing authority who held an elected office of the city on the effective date of this plan became a participant on that date.

Each part-time, temporary or seasonal employee who was employed by the city on the March 1, 1987, effective date of this plan or who was hired before January 1, 2000, and who elected to participate in the plan became a participant in this plan on the later of the effective date, provided he was then in active service with the city or on an authorized leave of absence, or the first day of the month coinciding with or next following his date of employment.

Each Full-time employee (as defined in Article II, Section 10) who commences Service with the city subsequent to the effective date of this plan shall become a participant on the first day of the month coinciding with or next following the date he commenced Service; provided, however, that in accordance with Marietta Municipal Code Section 4-12-2-070, this provision is not intended and shall not be applied as permitting a participant of any retirement plan to participate in any other retirement plan.

Participation in the plan shall not give any employee the right to be retained in the employ of the city nor, upon dismissal, to have any right or interest in the fund other than is herein provided.

A full-time contract employee may elect, in writing, not to participate in the plan. However, once such an election is made, he may not change the election at a later time to again participate in the plan.

Any eligible employee who terminates employment as a public safety participant under the 4022 plan, and who moves to a general employee position on or after June 1, 1999, shall participate in the consolidated retirement plan adopted by Ordinance No. 4532 on the first day of the pay period immediately coinciding with the employee's change to such position. The employee shall have no right whatsoever to participate or become eligible to participate in general employee portion of the retirement plan adopted by Ordinance No. 4022 as such portion has been terminated by the city. The employee also has no right to continue participation in the public safety portion of the retirement plan adopted by Ordinance No. 4022 after the employee moves to a general employee position. However, the employee shall be entitled to a vested right in his accrued retirement benefits, and shall have the option to receive benefits upon retirement as a public safety participant under the 4022 plan from the time the employee became eligible to the date the employee changes to a general employee position and benefits under the consolidated retirement plan from the date the employee changes to a general employee position to the date of retirement, or the employee may waive and relinquish any and all rights to receipt of any benefits under the 4022 plan and have all benefits calculated under the consolidated retirement plan at the date of retirement.

Notwithstanding anything contained herein to the contrary, the following individuals shall not be eligible to participate in the plan:

- (i) A part-time, temporary or seasonal employee hired on or after January 1, 2000;
- (ii) A leased employee within the meaning of Internal Revenue Code Section 414(n)(2);
- (iii) An employee classified by the city or the Marietta Board of Lights and Water as a leased employee, regardless of whether such employee is a leased employee within the meaning of Internal Revenue Code Section 414(n)(2); or
- (iv) A person who is initially classified by the city or the Marietta Board of Lights and Water as an independent contractor or leased employee for purposes of the withholding and payment of employment taxes, even if such person is later determined, whether by the city, the Marietta Board of Lights and Water, or otherwise, to be a common law employee of the city or of the Marietta Board of Lights and Water.

(Ord. No. 4905, 6/12/91, § 5; Ord. No. 6064, 11/10/1999, § 3; Ord. No. 6340, 12/12/2001, § 10)

**Section 2.** It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be

unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.

**Section 3.** All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

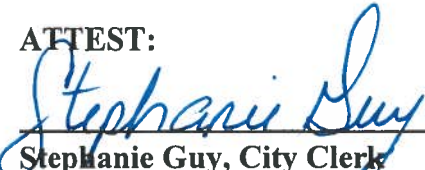
**Section 4.** This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

DATE: October 10, 2018


APPROVED:

  
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R. Steve Tumlin, Mayor

ATTEST:

  
\_\_\_\_\_  
Stephanie Guy, City Clerk

Approved as to Form:

  
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Douglas R. Haynie, City Attorney