

COUNCIL BILL NO. 381794ORDINANCE BILL NO. 5293

AN ORDINANCE AMENDING  
THE CITY CHARTER OF MARIETTA, GEORGIA

To delete previous Sections 4.13 through 4.29 and to substitute in lieu thereof the attached Sections relating to the Police and Fire Civil Service.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA, THAT:

Section 1. Sections 4.13 through 4.29 of the Charter of the City Marietta are hereby deleted in their entirety and the following language is substituted in lieu thereof as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

Section 2. The adoption of this Charter Amendment follows:

- a) The publication of notice in the local newspaper, as required by law;
- b) The holding of the second of two public hearings at two regular consecutive meetings of the municipal governing authority, not less than seven (7) nor more than sixty (60) days apart; and
- c) The filing of the proposed amendment with the Clerk of Superior Court and the Clerk of the City of Marietta, Georgia.

Section 3. 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 4. All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 5. This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

FIRST READING

VOTES FOR: 7

VOTES AGAINST: 0

DATE: March 9, 1994

APPROVED:

  
ANSLEY LITTLE MEADERS, Mayor

ATTEST:

  
SHEILA R. HILL, City Clerk


SECOND READING

VOTES FOR: 7

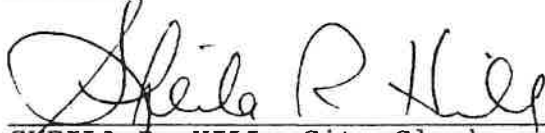
VOTES AGAINST: 0

DATE: April 13, 1994

APPROVED:

  
ANSLEY LITTLE MEADERS, Mayor

ATTEST:

  
SHEILA R. HILL, City Clerk

**HAYNIE & LITCHFIELD, P. C.**

ATTORNEYS AT LAW

222 WASHINGTON AVENUE

**MARIETTA, GEORGIA 30060**DOUGLAS R. HAYNIE  
GREGG E. LITCHFIELD  
EMILIE K. PETROVICH  
STEPHEN T. CRANETELEPHONE 422-6900  
AREA CODE 404  
TELECOPIER 424-6900

April 14, 1994

Mr. William J. Buckner  
City Manager  
City of Marietta  
Post Office Box 609  
Marietta, Georgia 30061

Re: Civil Service Board Charter Amendment

Dear Bill:

This letter will reflect the motion passed at last night's Council meeting regarding the Civil Service Board Charter Amendments. The motion adopted by Council approved the Charter Amendments to the Civil Service Board as amended on March 31, 1994 (as attached as Exhibit "A" in the agenda package) with the following two changes:

## 1. Section 4.30 was added as follows:

All appointments and re-appointments shall be on probation for a period of 12 months from the date of the appointment, and at any time before the expiration date of said probationary period the chief may discharge any probationer in such department and such probationer shall not be entitled to a hearing upon such discharge. If a probationer be not discharged before the expiration of his probation, his appointment shall be deemed complete.

## 2. The following sentence was added at the end of Section 4.25 as follows:

Until rules and regulations are adopted as stated above, the current rules and regulations pursuant to Part 4 Chapter 2 Section 4-2001 et. sec. shall apply and remain in full force and effect.

Otherwise, Exhibit "A" dated March 31, 1994 was adopted by Council pursuant to the published agenda items.

Sincerely,

  
Douglas R. Haynie

/ah

1 As Adopted by Council - April 13, 1994

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3 **POLICE AND FIRE CIVIL SERVICE**

4

5 **Section 4.13 Established**

6

7 There is hereby established a Marietta Police and Fire Civil Service System. All  
8 sworn officers of the Marietta Police Department and certified officers of the Marietta  
9 Fire Department, except the police chief and fire chief, shall be under the Marietta  
10 Police and Fire Civil System hereinafter created, and all persons who may thereafter be  
11 elected or appointed as sworn or certified officers of said departments (except the chiefs  
12 thereof) shall thereafter remain and continue their respective employment as municipal  
13 officers and employees during satisfactory performance and obedience to City laws and  
14 ordinances and such reasonable rules and regulations as may from time to time be  
15 prescribed by the Civil Service Board, and adopted by the City Council as hereinafter  
16 provided; however, nothing herein contained shall be construed to prevent or preclude  
17 proper adverse action, up to and including termination, against any officer or member  
18 of said fire department or police department for cause.

19

20 **Section 4.14 Definitions.**

21 The following definitions, as used in this division, shall apply.

22 *Members of the fire department.* All certified officers of the  
23 department of the rank of deputy chief or below, assistant chiefs, captains,  
24 engineers and firefighters, fire inspectors, and such others as such Civil  
25 Service Board may find and designate to properly be such members, with  
26 approval of the city council.

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27           *Members of the police department.* All sworn officers of the  
28 department of the rank of deputy chief or below, and such other persons as  
29 such Civil Service Board may find and designate to properly be such  
30 members with approval of the City Council.

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### CIVIL SERVICE BOARD

33

#### 34   Section 4.15                   Membership; terms; vacancies.

35           The Civil Service Board for the City of Marietta shall consist of five  
36 members at all times and the members shall be appointed or elected as  
37 hereafter provided. The Post 1 and Post 3 members of the Civil Service  
38 Board shall be appointed by the City Council for the City of Marietta, as  
39 hereafter provided. The Post 2 and Post 4 members shall be elected, as  
40 hereafter provided, by members of the fire and police departments. The four  
41 members as selected herein to fill Post 1, Post 2, Post 3 and Post 4 shall  
42 select a fifth member of the Civil Service Board who shall be a resident of  
43 the city of Marietta and such person so selected shall be the Post 5 member  
44 of the Civil Service Board. The Post 5 member shall serve for a term of one  
45 year and the selection shall be in writing and signed by the other four post  
46 members. In the event that the members of the Post 1, Post 2, Post 3 and  
47 Post 4 are unable, by majority vote, to select a fifth member, within thirty  
48 (30) days after their election, all four (4) of said members shall be removed  
49 from the Civil Service Board and a successor shall immediately be selected to  
50 replace each such member and the subsequent selection shall be made in the  
51 manner in which the members were first selected.

52           The five members of the Civil Service Board shall be appointed or  
53 elected as follows for the terms set forth herein:

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54 Post 1: This member shall be appointed by City Council and shall  
55 serve for a three year term which will begin on January 1 and end on  
56 December 31 of the specified term.

57 Post 2: This member shall be elected by a plurality by the members  
58 of the fire and police departments, by secret ballot. The term shall be for a  
59 three year term which will begin on January 1 and end on December 31 of  
60 the specified term.

61

62 Post 3: This member shall be appointed by the City Council and  
63 shall serve a three year term which will begin on January 1 and end on  
64 December 31 of the specified term.

65

66 Post 4: This member shall be elected by a plurality by the members  
67 of the fire and police departments, by secret ballot. The term shall be for a  
68 three year term which will begin on January 1 and end on December 31 of  
69 the specified term.

70

71 Post 5: This member shall be appointed by a majority vote of Post  
72 1, Post 2, Post 3 and Post 4 during the Board's regular January meeting.  
73 The initial and all subsequent terms shall be for a one year term which will  
74 begin on February 1 and end on January 31 of the following year.

75 Each Post member shall serve in accordance herein and until a  
76 successor has been appointed or elected. No person shall be eligible to be a  
77 member of said Board who: holds any elected governmental position, or is  
78 employed by, a municipal or county government; is less than 25 years of  
79 age; is not a bona fide resident and qualified voter of said City; has an  
80 immediate family member serving in an elected position with said City or has

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81 an immediate family member who is currently employed by a city  
82 department, or a department properly designated as under Civil Service  
83 jurisdiction as set forth in Section 4.14 of this Code. Immediate family  
84 member is defined as spouse, son, daughter, father, mother, brother, sister,  
85 step-father, step-mother, step-son, step-daughter, step-brother, step-sister,  
86 father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law or  
87 daughter-in law. Members of the Civil Service Board who are serving at the  
88 time this Code section is officially adopted, who would be ineligible due to  
89 this paragraph, may serve the remainder of their specified terms. The Post 2  
90 and Post 4 members shall serve pursuant to an election which shall be  
91 conducted by the Clerk of the Board who shall certify the results to the City  
92 Council. All five positions shall be entered on the minutes of the City  
93 Council. At the expiration of the term of each member, the election or  
94 appointment shall be thereafter by the same method and upon the same  
95 terms and conditions as provided herein.

96 In the event of a vacancy upon said Board caused by death,  
97 resignation or other cause, the vacancy shall be filled as originally provided  
98 herein and the person filling such vacancy shall be elected to serve for the  
99 unexpired term. If any member of the Civil Service Board shall miss and fail  
100 to attend any two consecutive meetings of the Board duly and properly  
101 called as herein provided, the council, at any regular or special meeting, may  
102 by resolution terminate the term of such member and declare that a vacancy  
103 exists on said Board, which shall be filled as above provided.

104 The Director of Human Resources of the City of Marietta, or his or her  
105 designee, shall attend all regular and special meetings of the Board. The  
106 Human Resources Director shall cause to be provided eight hours of training  
107 for each board member within the first twelve (12) months of his or her

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108 appointment and annually thereafter four hours training for each member  
109 with service of more than one year, such training shall include but not be  
110 limited to appeal procedures. Such Director shall provide such training to  
111 each Board member as is deemed appropriate by the Director. All such  
112 training provided by the Director shall be attended by each member of the  
113 Board. If the training as provided by the Director of Human Resources is not  
114 completed within the calendar year as specified, the Chairman may  
115 recommend to the City Council termination of the term of such member.  
116 The City Council at any regular or special meeting by resolution, with or  
117 without a recommendation of the Chairman, may terminate the term of such  
118 member and declare that a vacancy exists on such Board and that such  
119 vacancy shall be filled as above provided.

120 The current terms of the various posts are to expire as follows:

121 Post 1 - December 31, 1994,

122 Post 2 - December 31, 1994

123 Post 3 - December 31, 1995

124 Post 4 - December 31, 1995

125 Post 5 - January 31, 1995

126

127 **Section 4.16 Oath.**

128 Every person who shall be elected as a member of such Civil Service  
129 Board shall, within 15 days after such election, qualify by taking oath that he  
130 is eligible for said office and will execute the duties of the same according to  
131 the best of his or her knowledge and ability, and such oath as may be  
132 required by the charter of the City and the laws of the State for public  
133 officials. Such oath shall be administered by any person authorized by law  
134 to administer oaths and a copy thereof filed with the clerk.



135

136 **Section 4.17** Chairman; meetings; clerk, quorum.

137 Said Civil Service Board shall elect by a majority of the Board one (1)  
138 of its members as chairman, who shall hold office as such chairman at the  
139 pleasure of the Board. The Chairman shall be elected at the January meeting  
140 of each year. The duties of the Chairman shall be to preside at all regular  
141 and special meetings of the Board, to conduct all hearings of said Board, call  
142 special meetings of the Board upon proper notice and perform such other  
143 duties as may be prescribed from time to time by the Board. Said Civil  
144 Service Board shall hold regular meetings on the third Mondays in January,  
145 April, July and October, for the transaction of any business that may come  
146 before it and only matters set forth in the notice of the meeting shall be  
147 considered at the meeting, except by unanimous consent of all members  
148 present. The Civil Service Board may hold special, adjourned, or called  
149 meetings at any time that the same may be called by the Chairman of said  
150 Board or by any two (2) members thereof. In the case of all special or called  
151 meetings of the Board, called in the manner herein before provided, the Clerk  
152 of the said Board, which Clerk shall be the City Clerk or his or her designee,  
153 shall issue a notice of the special or called meeting, stating time, place and  
154 subject and shall be served personally upon each member of the Board or left  
155 in their usual places of residence at least 24 hours before the time of the  
156 meeting. Only matters set forth in the notice of the special or called meeting  
157 shall be considered at the meeting. Provided, however, if a member absents  
158 himself from the city for more than 30 continuous days, a meeting may be  
159 duly and regularly held upon giving the requisite notice to the remaining  
160 members of the Board. At any regular, special, or called meeting any three  
161 (3) members of the Board shall constitute a quorum for the transaction of

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162 business and the votes of any three (3) members of the Board shall be  
163 sufficient to transact its business. All meetings of the Board shall be held in  
164 the City Hall, or in such place as the City Council holds its meetings.

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166 **Section 4.18 Minutes.**

167 Said Civil Service Board shall keep minutes of its meetings and records  
168 of all business transacted by it at each meeting. All such minutes and  
169 records shall be open to inspection at all times by the public and shall be on  
170 file in the office of the city clerk. The city clerk or his or her designee shall  
171 attend all meetings of said Civil Service Board and shall keep the minutes  
172 and records of same.

173

174 **Section 4.19 Compensation.**

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

183

184 **Section 4.20 Political activity by members of fire or police departments**  
185 **prohibited.**

186 (a) No officer or employee or member of said fire department or  
187 police department shall solicit orally or by letter or otherwise or receive or be  
188 in any manner concerned in soliciting any votes or receiving any assessment

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189 or subscription or contribution of any candidate for any municipal office of  
190 the city.

191 (b) No member of said fire department or police department shall in  
192 any way undertake or threaten to degrade, discharge or demote, or in any  
193 manner change the official rank or pay of any officer or employee of said  
194 departments, or promise or threaten to do so, for giving or withholding or  
195 neglecting to make any contribution of money or any valuable thing for any  
196 person, party or for any political purpose whatsoever, or for the support of  
197 any candidate. No member of said fire department or police department  
198 shall receive any promotion as a reward for his or her support of any  
199 candidate or political party, and no member of said fire department or police  
200 department shall be reduced in rank or pay or discharged for his or her failure  
201 to support any candidate for political office.

202 **Section 4.21 Effect of recommendation for employment.**

203 No recommendation made by any officer or official, whether said  
204 officer or official be a City, County, State or national officer or official, of  
205 any person being examined for membership in said departments shall be  
206 considered except as the same may apply to the general moral character of  
207 the applicant.

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209 **Section 4.22 Reserved**

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211 **Section 4.23 Penalty for violations by member of department.**

212 Any member of the fire department or police department, by appointment  
213 under the civil service rules, who shall willfully, or through culpable  
214 negligence violate any provisions of this division, or any criminal statute of  
215 this state, or such ordinance of this City, or the rules of the said Civil

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216 Service Board or of said respective departments shall be subject to  
217 disciplinary action up to and including termination of employment.

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219 **Section 4.24 Penalty for violation by Civil Service Board member.**

220 Any member of the Civil Service Board who shall violate any of the  
221 provisions of this division shall be subject to removal by a majority vote of  
222 the council after a full hearing before same and after having been served  
223 with written notice of the charges against him or her five (5) days before the  
224 date set for such hearing. The finding of the council upon such a hearing  
225 shall be final and conclusive and such person so removed shall not thereafter  
226 be eligible for reelection upon said board for a period of five (5) years. If so  
227 removed, his or her successor shall be elected in the same manner as he or  
228 she was elected.

229

230 **Section 4.25 Rules and Regulations.**

231 The Civil Service Board shall make rules and regulations to carry out  
232 the purpose of this division and for:

233

234 (a) Political Activity.

235 (b) Grievance Process.

236 (c) Hearings - conduction of.

237 (d) Any such rules and regulations in accordance with the

238 provisions of this division as it may deem necessary. All such rules,

239 regulations, and qualifications shall be subject to approval by the Council and

240 shall only be effective on and after the date of such approval.

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241 Until rules and regulations are adopted as stated above, the current rules and  
242 regulations pursuant to Part 4 Chapter 2 Section 4-2001 et. sec. shall apply  
243 and remain in full force and effect.

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245 **Section 4.26 Hearings.**

246 No non-probationary member of the fire department of the rank of  
247 deputy chief or below or of the police department of the rank of deputy chief  
248 or below, shall be removed, discharged, demoted, adversely affected by the  
249 promotional process or involuntarily retired except for cause upon written  
250 charges or complaint and after an opportunity for an open public hearing in  
251 his or her own defense before the Civil Service Board. **The chiefs of the fire  
252 and police departments shall have the authority to suspend without pay any  
253 member of their respective departments upon cause for periods not to exceed 10  
254 days without a hearing by the Civil Service Board. Suspensions for periods in  
255 excess of 10 days shall be given pending hearing by the Civil Service Board.  
256 Said hearing shall be held within 30 calendar days following the incident or the  
257 receipt of official notification of the action, whichever is first, or shall be deemed  
258 waived unless all parties concerned agree to an extension in writing to the Board.**  
259 The charges upon which such disciplinary action was taken shall be heard  
260 before the Civil Service Board after service upon the person charged with a  
261 copy of the charges, as herein before provided. The decision of the Board  
262 thereon shall be given in writing to all parties and a copy thereof filed with  
263 the City Clerk. In all proceedings before the Civil Service Board, all members  
264 are expected to attend unless previously excused by the Chairman. The city  
265 attorney shall appear and represent the interest of the City when requested  
266 or ordered by the City. The person against whom charges are preferred or  
267 the appellant shall have the right to employ counsel to represent him at the

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268 hearing before said Board. Said Board shall have power to subpoena  
269 witnesses both on behalf of the City and the accused or appellant and to  
270 require the production of any books, papers or records material to the issues  
271 in said case, by subpoena to be issued in the same manner as subpoenas are  
272 issued by the municipal court, signed by the Chairman of said Board. Said  
273 Board shall have power to punish for contempt by a fine not exceeding \$100  
274 or imprisonment not exceeding seven (7) calendar days any person willfully  
275 failing or refusing to obey such subpoena.

276

277 **Section 4.27      Witness's oath.**

278        In the course of any investigation by said Civil Service Board, any  
279 member thereof shall have the power to administer oaths to any witness.

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281 **Section 4.28      Records of departments; availability.**

282        Except to the extent prohibited by law, the Civil Service Board shall at  
283 all times have access to all files, records and data of the fire and police  
284 departments of the city, and on request to either the chief of the fire  
285 department, the chief of the police department or the city clerk or  
286 department of Human Resources, must be furnished with any such record  
287 information as may be approved by the City Council.

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289 **Section 4.29      Right of certiorari.**

290        After decision is rendered by the Civil Service Board in accordance  
291 with the Civil Service Board rules, any party to the hearing may apply for  
292 certiorari to the appropriate Superior Court pursuant to the laws of this  
293 State.

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295 Section 4.30 Probation

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297 All appointments and re-appointments shall be on probation for a  
298 period of 12 months from the date of the appointment, and at any time  
299 before the expiration date of said probationary period the chief may  
300 discharge any probationer in such department and such probationer shall not  
301 be entitled to a hearing upon such discharge. If a probationer be not  
302 discharged before the expiration of his probation, his/her appointment shall  
303 be deemed complete.