

AN ORDINANCE

Amending the City/BLW policies regarding recruitment, selection, and reemployment to modernize language and practices and provide flexibility to the chiefs of public safety and other department heads and hiring managers.

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

Section 1: That Sections 4-4-6-010 through 4-4-6-030 of Article 4-4-6 (Recruitment and Selection) of the Municipal Code of Marietta be amended to read as follows:

**ARTICLE 4-4-6
Recruitment and Selection**

4-4-6-010 - Recruitment.

A. Personnel Requisition.

1. When a department head or designee wishes to fill any vacancy of a budgeted position or would like to create a hiring eligibility list as provided in Section 4-4-6-020(E), he will submit a request to the human resources department to fill the position. The human resources director and the department head or their designees will develop a plan to either open the position competitively to the public and employees or to open the position promotionally to employees only. The request to fill the position must include class title, assigned pay grade, and current minimum job requirements.
2. The human resources director or designee shall review the information submitted by the department head or designee to ensure that information necessary for recruitment, selection, appointment or promotion is provided, and to ensure that suggested employment standards are consistent with equal employment opportunity laws and regulations. All requests must be approved by the human resources director and the city manager or BLW general manager or their designees.

B. Posting and Advertisement.

1. All vacancies should be announced on the city/BLW website. If the position is open to the public, the announcement may also be sent to a listing of appropriate organizations and individuals and such other organizations and websites on file in the human resources department that might attract potential candidates. Employees are encouraged to refer qualified applicants to the human resources department.
2. The human resources department, with input from the requesting department head, may advertise to other organizations, universities and schools, and the news media, and make reasonable efforts to publicize open vacancies so that potential candidates are informed and qualified persons are attracted to compete for the position.

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3. Announcements shall specify title, minimum starting salary, shift assignment or special hours of work, exemption status, whether the position is "at-will," minimum requirements including alcohol and controlled substance testing, manner of making application, final date on which applications will be accepted, and assurance of equal employment opportunity.

(Code 1978, § 4-1021; Ord. No. 5485, 9/13/95; Ord. No. 5575, 6/12/96; Ord. No. 6705, 8/11/2004, § 1; Ord. No. 7024, 3/15/2007, § 4; Ord. No. 7061, 6/13/2007, § 1; Ord. No. 7191, 6/11/2008, § 1)

4-4-6-020 - Application process.

- A. Applications will only be reviewed and considered for advertised or posted positions. Unsolicited applications or resumes will be destroyed in accordance with applicable law.
- B. Applications for positions with the city/BLW shall be made through the human resources department on application forms which require information covering training, experience, skills, and such other job related information as may be necessary to determine the abilities of the applicant to meet the requirements of the position or by resume for certain designated positions.
- C. All applications and letters of interest must be signed or otherwise verified (in a manner deemed sufficient by the human resources director) by the applicant. If, at any time, the applicant's information is, in the sole discretion of the city/BLW, determined to be materially false or to contain material omissions, the applicant or employee is subject to either elimination from further consideration or disciplinary action up to and including discharge. The human resources director or the department head may disqualify an applicant who practices or attempts to practice fraud or deception in the application or selection process.
- D. The human resources director or applicable department head may require the applicant to submit proof of education, military service, necessary certifications or licenses or any other job-related documentation deemed necessary.
- E. Applicants are considered for advertised positions for which they specifically apply. Except for the police or fire departments, should the same or similar position become open in the same department within 30 days of the closing date of the first announcement, or longer at the discretion of the human resources director, the same applicant pool or group will be used without further announcement or advertisement. In order to utilize this applicant pool or group in this manner, the department hiring manager should create and send to the human resources department an eligibility list of other candidates deemed best qualified at the time the original vacancy is filled.
- F. Applications may be updated to be considered for a new vacancy at the request of the applicant if the applicant can provide the title of the position that he previously applied for and the request for update is within three months of the previous application.
- G. Individuals with passing scores on police and fire entrance examinations are eligible for further selection processing for a time period to be determined at the discretion of the

respective chief of each department; provided, however, that absent the approval of the director of human resources, no eligibility list may remain in effect for more than two years with a maximum allowable time period of three years.

- H. The police chief or fire chief may waive their respective police officer/firefighter entrance examination requirement as described above for eligible former employees. Eligibility at a minimum will include:
1. The candidate must have left employment with the city/BLW in good standing in accordance with all departmental and city/BLW policies and rules and regulations.
 2. The candidate must have successfully passed an entrance examination given by the human resources department just prior to their previous employment as a police officer or firefighter.
 3. The candidate must not have been out of the employ of the city/BLW any longer than 12 months.
 4. In their previous employment with the police or fire department, the candidate must have successfully completed the working test period.
 5. The candidate must have maintained all required certifications for the position.
 6. The candidate's last evaluation must reflect that the individual met minimally acceptable performance standards.
 7. The candidate must have left the department with no disciplinary action pending or with no active investigation into their conduct underway. The candidate's disciplinary history must not include a suspension of one day or more or demotion dating back one year from the date the employee left the department.

All candidates must satisfactorily fulfill the remaining requirements for selection including, but not limited to an updated background investigation, driver's history, physical examination including drug screening and psychological evaluation.

If the police or fire chiefs choose to waive the entrance examination for eligible former employees, they will advise the human resources director in writing of such candidates prior to the date of the scheduled entrance examination.

The police and fire department may issue more restrictive eligibility requirements than the above listing. However, no such supplemental rule or policy will be effective without the approval of the city council. In the event of a conflict, the more restrictive rule will be enforced.

Except as otherwise provided, rehired former employees of the police or fire departments are to be treated as new employees in all other respects including but not limited to working test period, benefits, eligibility for promotion/special assignments and eligibility for performance-based pay raises.

(Code 1978, § 4-1022; Ord. No. 5139, 3/10/93, § 3; Ord. No. 5485, 9/13/95; Ord. No. 5575, 6/12/96; Ord. No. 6216, 2/14/2001, § 1; Ord. No. 7024, 3/15/2007, § 5; Ord. No. 7191, 6/11/2008, § 1)

4-4-6-030 - Selection process.

- A. Screening Process, Human Resources Department. The human resources department staff will evaluate and screen each application for an advertised position for the purpose of determining whether the applicant meets the established employment standards. Applicants may be requested to furnish information or evidence as is necessary to make such a determination including, but not limited to written, oral, physical or performance tests or any combination of these as determined by the hiring department and the human resources department. Applicants best meeting employment standards will be referred to the employing department head or his designee for further review and personal interview.
- B. Screening Process, Department Level. The department head or designee will review referred applications for skill needs and interview at least three of the referred candidates for each vacant position. The department head or his designee may request interviews with additional candidates. However, the department head or his designee may either select an employee from among applicants referred or choose not to select from the provided applicant pool and request that the position be readvertised. The department head shall inform the human resources director or designee of his recommendation for hire as soon as possible after he makes a decision.
- C. Basis of Employment. Employment with the city/BLW shall be based on the ability to perform the essential job functions described for each position, with or without a reasonable accommodation, merit, and moral fitness as evidenced by:
 - 1. Training, experience, education and skill level as reflected by the application form and other requested documentation;
 - 2. Written examination or performance tests when applicable;
 - 3. Drug screening examination for all jobs;
 - 4. References and background investigations;
 - 5. Minimum physical agility standards for non-civilian members of the police and fire departments; and
 - 6. Post-offer medical examinations.
- D. Examinations and Interviews. All applicants are subject to the requirements of the standard examinations and/or performance testing procedures which are currently in practice for the position for which they have applied. Written examinations used by the city/BLW will be validated for job relevancy based on legally acceptable validation methodologies. Interview questions used as a basis for making hiring decisions will be uniformly applied to each applicant for a position and will be job-related to determine the merit and fitness of the applicant for the particular position for which they have applied. However, no hiring authority is restricted from following up with additional related questions based on an applicant's response to any standard interview question or from deleting a standard question if the answer is obvious or well-known to the hiring authority.
- E. References and Background Investigations. The human resources department, the department head or their designee may perform, depending on the nature of the job: reference checks, criminal history checks, credit history checks, education and other asserted credentials

verification or other background investigations including polygraph testing and driving history checks as part of the preemployment procedure.

- F. Post-Employment Offer Physical Examinations and Drug Screening. For certain designated positions, individuals who have received a conditional offer of employment or offer of promotion, transfer or demotion to such designated positions shall receive a physical and/or psychological examination that is job-related and is consistent with business necessity and/or drug screening test prior to their first day of employment or service in the new position. If a current employee who is seeking a promotion, transfer or demotion to a position in a different department fails the drug screen for the new position; the employee's current department head as well as the prospective department head will be notified of such failure.
- G. Selection Decision. The authority for making the final decision as to which applicant will be hired rests with the department head. No offer of employment shall be made until a completed City of Marietta/BLW employment application is on file with the human resources department and the results of all preemployment tests, reference checks and background information are completed and analyzed. All appointments and conditions of employment will be reviewed and approved by the department head and the human resources director.
- H. Establishment of Trainee Position. If, in the judgment of the department head and the human resources director, there appear to be no qualified candidates as a result of a recruitment effort, a position may be temporarily reclassified as a trainee position. The trainee position will be readvertised with lower qualification requirements and starting wage. If the trainee position becomes vacant or the occupant of the position fully meets the requirements of the original position, the trainee position reverts to the original, budgeted classification.
- I. Establishment of Apprenticeship Programs. The city council may establish certain career apprenticeship programs, for example: apprentice electrical lineworker. The purpose of this type of program is to recruit and train individuals with little or no previous experience or training in order to provide an adequate stream of qualified individuals into a high skilled trade or profession. Any individual employed on or after July 1, 2007, in such apprenticeship program is designated as an "at-will" employee. Employment in such an apprenticeship program does not in any way grant, imply, or create a contract of employment for any specific period of time. A program designated as a formal apprenticeship program is a specific training program and success will depend on the ability of the participant to learn and apply specific skills. Employment may be terminated by the city/BLW or the employee for any or no reason whatsoever. However, in consideration of such training opportunity, if the apprentice employee terminates his/her employment, in order to leave the city/BLW's service in good standing, he/she must inform his/her department head of his/her resignation, in writing, at least 14 calendar days in advance of the date of resignation. Failure to comply with this procedure may be cause for denying such individual future employment with the city/BLW. Further, employees serving a formal apprenticeship program do not have the right to administrative appeal, grievance procedures or hearing rights except that such employees have the right to utilize the procedure outlined in Section 4-4-4-030 to file complaints of discrimination on the basis of race, color, religion, national origin, age, sex, disability and political affiliation in accordance with Article 4-4-4 herein. A post-employment name-clearing hearing for such apprentice workers may be conducted if deemed appropriate at the discretion of the city manager.

J. Reasonable Accommodation Policy.

1. It is the policy of the city/BLW to provide reasonable accommodation to the known physical and/or mental limitations of qualified applicants or employees with disabilities, when to do so does not result in undue hardship. The policy is implemented to:
 - a. Ensure equal opportunity in the application process;
 - b. Enable a qualified individual with a disability to perform the essential functions of a job; and
 - c. Enable a qualified employee with a disability to enjoy equal benefits and privileges of employment.
2. It is the obligation of an individual with a disability to request a reasonable accommodation unless the qualified employee has an obvious or otherwise known disability and it appears that he cannot perform an essential function of the job.
3. A qualified individual with a disability has the right to refuse a reasonable accommodation. However, after refusing a reasonable accommodation, if the individual cannot perform the essential functions of the job, he can be considered unqualified for the job.
4. The following process will be followed to identify the kind of accommodation best suited for the activity:
 - a. The activity or job will be examined to determine its purpose and essential functions.
 - b. The ADA coordinator in the human resources department will consult with the individual with the disability to determine their specific physical and/or mental abilities and limitations as they relate to the essential job functions.
 - c. The ADA coordinator in consultation with the individual and/or sources providing technical assistance for reasonable accommodations, will identify potential reasonable accommodations and assess how effective each would be in enabling the individual to perform essential job functions.

K. The chiefs of the fire and police departments shall establish bona fide occupational qualifications for non-civilian members of their departments in order to assure the initial and continued fitness and ability of such members to perform their duties. These qualifications shall include, but are not limited to, mental and physical qualifications. In addition, all individuals hired as police officers and firefighters after the date of approval of this ordinance are required, with or without a reasonable accommodation, to meet minimum physical agility standards, established by the city and as may be amended, in order to be initially employed and shall continue to meet these minimum physical agility standards throughout their career with the city. Failure to meet minimum physical agility standards will constitute a failure to meet minimum fitness for duty requirements and as such will be cause for separation from employment in accordance with Section 4-4-8-030.

L. When vacancies occur in non-civilian positions in the police and fire departments above entry level and below a deputy chief appointment, the chiefs of the fire and police departments shall have authority to select individuals to fill such vacancies in the following manner:

1. The chief will post or cause to be posted a notice on all employee bulletin boards within their respective departments soliciting applications for the promotional process from eligible candidates.
2. The selection process may include, but is not limited to:
 - a. A written examination;
 - b. An assessment center;
 - c. A review of the candidates' departmental employment history;
 - d. An evaluation of the candidates' promotional potential by all ranking officers and/or supervisors in the candidates' chain of command below the rank of chief;
 - e. A background investigation including, but not limited to, criminal history, credit history and driving history;
 - f. An alcohol and illegal drug screen;
 - g. For those employees hired after October 12, 1994, either successful completion of a physical agility test or successful completion of a physical agility test within the previous 12 months provided the employee is not participating in any physical agility remediation program at the time of application to participate in the promotional process; and
 - h. Oral interviews may, at the discretion of the chief, be conducted with the chief or his designee.
 - i. Failure to successfully complete or pass any portion of the selection process as outlined in this subsection (L)(2) will eliminate such employee from further consideration ; provided, however, that all selection procedures will be uniformly applied to all eligible candidates for the same position to determine their relative qualifications and fitness for the position. The specific selection instruments will be periodically reviewed and validated for job relevancy.
3. To facilitate the decision-making process regarding promotions, the chief of each department may, in his discretion, utilize an eligibility list. In such event, individuals who have successfully completed the selection process as described in subsection (L)(2) of this section will be listed in ranking order by total score, but shall have no enforceable expectation of promotion. The duration of each list will be at the discretion of the respective chief of each department; provided, however, that absent the approval of the director of human resources, no eligibility list may remain in effect for more than three years with a maximum allowable time period of four years.
4. The authority for making the final decision as to which candidate will be promoted rests with the chiefs of each department. No offer of promotion shall be made until the results of all of the selection procedures have been completed and analyzed.
- 4.

(Code 1978, Sec. 4-1023; Ord. No. 5139, 3/10/93, §§ 4—7; Ord. 5360, 10/12/94; Ord. No. 5485, 9/13/95; Ord. No. 5575, 6/12/96; Ord. No. 7024, 3/15/2007, § 6; Ord. No. 7061, 6/13/2007, § 2; Ord. No. 7191, 6/11/2008, § 1; Ord. No. 7790, 3/11/2015, § 1)

Section 2: That Section 4-4-8-090 (Reemployment) of Article 4-4-8 (Separation and Reemployment) of the Municipal Code of Marietta be amended to read as follows:

ARTICLE 4-4-8
Separation and Reemployment

4-4-8-090 - Reemployment.

- A. Employees who fail to give 14 days' notice prior to resignation or abandon their jobs will not be reemployed for a period of three years. The department head, with the approval of the human resources director, may waive this restriction if it is in the best interests of the city/BLW as determined at time of separation. This waiver must be documented on the separation personnel action form.
- B. Employees who were terminated for cause are not eligible for reemployment.
- C. Employees who have resigned in good standing may reapply for any position with the city's employment.
 - 1. Rehired employees will be required to fulfill all responsibilities and requirements of a new employee.
 - 2. Exceptions.
 - a. Recalled regular employees from a layoff or reduction in force may have some requirements waived by the human resources director. See Section 4-4-8-020(C)(2).
 - b. A former employee who has been out of the city/BLW's employ for less than 12 months and who is determined to possess exceptional and demonstrated qualifications and/or experience superior to other candidates for a technical or professional position, which position is designated in the pay plan as having an EEOC category of 01, 02, or 03, may have some requirements waived by the human resources director. In addition, when a former employee is rehired under this paragraph or provision, the department head may request authorization to place the employee at the same level of seniority and benefits held immediately prior to his separation, with the approval of the human resources director.

(Code 1978, § 4-1050; Ord. No. 5575, 6/12/96; Ord. No. 7043, 5/9/2007, § 1; Ord. No. 7191, 6/11/2008, § 1)

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.

DATE: June 10, 2020

APPROVED: 
R. Steve Tumlin, Jr., Mayor

ATTEST: 
Stephanie Guy, City Clerk

Approved as to Form: 
Douglas R. Haynie, City Attorney