

ORDINANCE NO. 023-011

**AN ORDINANCE OF THE CITY OF MARLIN, TEXAS, ADOPTING AMENDMENTS TO CHAPTER 2 OF THE CODE OF ORDINANCES FOR THE CITY OF MARLIN, TEXAS, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE I, PROVIDING FOR THE FISCAL YEAR FOR THE CITY, THE DAY AND TIME OF REGULAR CITY COUNCIL MEETINGS, AND ADOPTION OF 'ROBERT'S RULES OF ORDER' TO GOVERN CITY COUNCIL MEETINGS; ADOPTING AMENDMENTS TO CHAPTER 2, ADMINISTRATION, ARTICLE II, AMENDING ORDINANCES FOR THE APPOINTMENT, RESIDENCE, TERM OF OFFICE, ABSENCE AND DISABILITY, AND PROVIDING FOR THE POWERS AND DUTIES OF THE CITY MANAGER; PROVIDING FOR OTHER DUTIES AND POWERS OF THE CITY MANAGER; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, SAVINGS, EFFECTIVE DATE, AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the City of Marlin (the "City") is a home rule city governed by a home rule City Charter which provides that the City Council may appoint a city manager who shall serve at the pleasure of City Council. The City's home rule City Charter further provides that the city manager shall have such authority and responsibilities as may be designated and given by the Council;

**WHEREAS**, the City Council for the City of Marlin (the "City Council") has adopted ordinances applicable to the administration of the City, by and through the adoption of Chapter 2, Article I of the Code of Ordinances for the City of Marlin, and the City Council desires to update and amend such ordinances;

**WHEREAS**, the City Council for the City of Marlin (the "City Council") has adopted ordinances applicable to the City Manager, by and through the adoption of Chapter 2, Article II of the Code of Ordinances for the City of Marlin, but the City Council desires to update and amend such ordinances;

**WHEREAS**, the above-referenced ordinances were adopted in 1973 and are in need of City Council review, and re-adoption or amendment as provided by this Ordinance; and

**WHEREAS**, the amendments adopted and set forth in this Ordinance shall benefit the City and its residents and will also benefit the general health, safety, and welfare, by providing for more efficient means of governance and management of the affairs of the City and providing guidance to the City Council which will benefit the City and its residents;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLIN, TEXAS, THAT:**

**Section 1. Authority.** This Ordinance is adopted pursuant to the authority given to the City by the City Charter, by to the police powers and authority of the City under Texas law, the Constitution, and the codes and the laws of the State of Texas, including but not limited to Chapter 51, Tex. Loc. Gov't. Code.

**Section 2. Findings of Fact.** The foregoing findings and recitations set out in the preamble of this Ordinance are found to be true and correct and that they are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section 3. Amendment of Chapter 2, Article I, of the Code of Ordinances of the City of Marlin.** Article I. In General, of Chapter 2 of the Code of Ordinances of the City of Marlin, is amended in its entirety to read as follows:

#### **ARTICLE I. IN GENERAL**

##### **Sec. 2-1. Fiscal year.**

The fiscal year of the city shall begin on the first (1st) day of October of each year and end on the thirtieth (30th) day of September of the following year.

##### **Sec. 2-2. Regular meetings.**

There will be one (1) regular monthly meeting of the city council each month on the second Tuesday of the month, at 6:00 P.M., at the City Hall, Marlin, Texas and continuing thereafter until changed by the city council.

##### **Sec. 2-3. Rules of order.**

“Robert’s Rules of Order” shall govern the city council in its deliberation in cases not otherwise provided for by statute, ordinance, rule, or regulation.

**Section 4. Amendment of Chapter 2, Article II of the Code of Ordinances of the City of Marlin.** Article II. City Manager, of Chapter 2 of the Code of Ordinances of the City of Marlin, is amended in its entirety to read as follows:

#### **ARTICLE II. CITY MANAGER**

##### **Sec. 2-16. Office created.**

There is hereby created in and for the city the office of city manager.

##### **Sec. 2-17. Appointment.**

The city council shall appoint a city manager for the city who shall be the administrative head of the municipal government under the direction and supervision of the city council.

##### **Sec. 2-18. Residence.**

The city manager is not required to be a resident of the city when appointed, but while employed as a city manager, the city manager shall reside in Falls County.

**Sec. 2-19. Term of office.**

The city manager shall be appointed for an indefinite period and shall be subject to discharge at the will of the city council.

**Sec. 2-20. Absence or disability.**

During the absence or disability of the city manager, the city council may designate some properly qualified person to perform the duties of said office.

**Sec. 2-21. Powers and duties.**

The powers, duties, and responsibilities of the city manager shall be as set forth in this Section:

- (a) To devote all of the city manager's working time and attention to the affairs of the city and be responsible to the city council for the efficient administration of its affairs;
- (b) To see that all adopted and approved ordinances, resolutions, and laws of the city are enforced;
- (c) The city manager shall have the power to hire, and discharge all employees of the city, with the exception of those city employees who are appointed by the city council;
- (d) The city manager shall exercise management and supervision over all city employees except for those city employees who are appointed by the city council, and when authorized by the city council, the city manager shall exercise supervision on behalf of the city council of any contractors hired or retained by the city council.
- (e) To attend all meetings of the city council with the right to take part in the discussion but having no vote; and the city manager shall be notified of all special meetings of said city council;
- (f) To see that all terms and conditions imposed in favor of the city, its inhabitants in any public utility franchise are faithfully kept and performed and upon knowledge of any violation thereof to call the same to the attention of the city council;
- (g) To act as budget officer and as such to prepare and submit to the city council prior to the beginning of each fiscal year, a budget of proposed expenditures for the ensuing year, showing in as much detail as practical the estimated amounts required by months for the efficient operation of each department of the city government and the reasons for such estimated expenditures;
- (h) The city manager, in addition to the foregoing paragraph (g), shall make and file a budget as required by state law;
- (i) To make a full written report to the city council as soon after the close of each month's accounts as possible, showing the operation and expenditures of each department for the preceding month, and a comparison of such monthly expenditures, by departments, with

the monthly allowances made for such departments in the annual budget, and to keep the governing body fully advised at all times as to the financial condition and needs of the city;

- (j) To recommend to the city council the salaries to be paid each appointive officer and subordinate employee of the city;
- (k) To recommend to the city council, in writing, from time to time, for adoption, such measures as he the city manager may deem necessary or expedient; and
- (l) To do and perform such other duties as may be assigned by city council or prescribed by any ordinance or resolution of the city council.

#### **Sec. 2-22. Purchasing agent.**

- (a) The city manager shall act as purchasing agent for the city and subject to city council approval, will purchase all merchandise, material, and supplies needed by the city and may establish, if needed, a suitable storehouse where such supplies shall be kept and from which same shall be issued as needed; and adopt such rules and regulations, which shall be subject to city council approval, governing requisitions and transaction of business between the city manager as such purchasing agent and the heads of the departments, officers, and employees of the city as the city council may approve.
- (b) It shall be the duty of the purchasing agent to comply with all competitive procurement requirements under Texas law.
- (c) In case of an emergency, catastrophe, or disaster, the city manager may, with the consent of the city council, and only as authorized by law, award contracts and make purchases for the purpose of repairing damages caused by said accident or avoiding said public emergency; but immediately afterwards, the city manager shall file with the mayor a certificate showing such emergency and the necessity of such action together with an itemized account of all expenditures.

#### **Sec. 2-23. Bond.**

The city manager shall furnish such surety bond as may be required by the city council by ordinance the premium to be paid by the city.

#### **Sec. 2-24. Compensation.**

The city manager shall receive such compensation as the city council shall fix from time to time by ordinance, resolution, or written contract.

#### **Sec. 2-25. Status of department heads.**

All provisions of this Code and ordinances of the city prescribing the duties of heads of departments shall remain in full force and effect except insofar as they conflict with the provisions of this article in which case the provisions of this article shall govern. This article shall not affect

any nondelegable duties of heads of departments or members of the city council which may be set forth in the Charter of the city.

**Section 5. Repeal and Amendment of Conflicting Ordinances.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed and amended to the extent of such conflict only. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the City regulating or applicable to outdoor burning or the responsibilities and authority of the fire chief, the terms and provisions of this Ordinance shall govern.

**Section 6. Severability.** If any provision, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance shall not be affected. No portion of this ordinance shall be inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, therefore, all provisions of this Ordinance are declared to be severable.

**Section 7. Savings Clause.** All rights and remedies of the City of Marlin are expressly saved as to any and all violations of the provisions of any ordinances affecting animals, licensing and registration within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**Section 8. Effective Date.** This Ordinance shall take effect immediately as authorized by the City Charter for the City of Marlin and State law, and upon publication in accordance with the provisions of the *Tex. Loc. Gov't. Code*.

**Section 9. Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

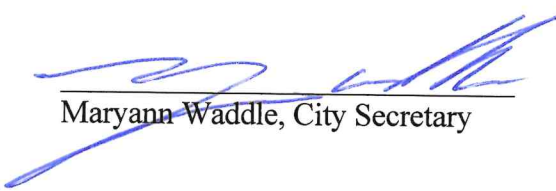
**FIRST READING** on the 1st day of November, 2023.


**SECOND READING** on the 14 day of November, 2023.

**PASSED AND APPROVED** on this 14 day of November, 2023.

**ATTEST:**

**CITY OF MARLIN, TEXAS**

  
Maryann Waddle, City Secretary

  
Susan Byrd, Mayor  
City of Marlin, Texas