

10-0-0952

(Do Not Write Above This Line)

AN ORDINANCE BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE TO AMEND CHAPTER 98, ARTICLE II, DIVISION 2, SECTIONS 98-63 AND 98-64; CHAPTER 114, ARTICLE IV, DIVISION 1, SECTION 114-79; CHAPTER 114, ARTICLE IV, DIVISION 7, SUBDIVISION II, SECTIONS 114-229 AND 114-230; CHAPTER 114, ARTICLE VI, DIVISION 1, SECTION 114-502; AND CHAPTER 114, ARTICLE VI, DIVISION 3, SECTIONS 114-546 AND 114-553, SO AS TO CHANGE THE NONDISCRETIONARY RANK OF POLICE CAPTAIN TO A DISCRETIONARY RANK; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1<sup>ST</sup> ADOPT 2<sup>ND</sup> READ & REFER
- PERSONAL PAPER REFER

Date Referred: 06/07/10  
 Referred To: PSLA  
 Date Referred: \_\_\_\_\_  
 Referred To: \_\_\_\_\_  
 Date Referred: JUN 21 2010  
 Referred To: \_\_\_\_\_

ADOPTED BY  
 COUNCIL

First Reading

Committee: Public Safety and Legal Administration  
 Date: 6/14/10  
 Chair: [Signature]  
 Referred To: Public Safety and Legal Administration

FINAL COUNCIL ACTION  
 2<sup>nd</sup>  1<sup>st</sup> & 2<sup>nd</sup>   
 Readings  
 Consent  V Vote

PSLA	Committee	Committee
6/15/10	Date	Date
[Signature]	Chair	Chair
No Recommendation	Action	Action
	Fav, Adv, Hold (see rev. side)	Fav, Adv, Hold (see rev. side)
	Other	Other
ON COMMISSION	Members	Members
[Signature]		
[Signature]		
[Signature]		
	Refer To	Refer To

	Committee	Committee
	Date	Date
	Chair	Chair
	Action	Action
	Fav, Adv, Hold (see rev. side)	Fav, Adv, Hold (see rev. side)
	Other	Other
	Members	Members
	Refer To	Refer To

CERTIFIED

CERTIFIED  
 JUN 21 2010  
 ATLANTA CITY COUNCIL PRESIDENT  
 [Signature]

CERTIFIED  
 JUN 21 2010  
 Rhonda Daughin Johnson  
 MUNICIPAL CLERK

MAYOR'S ACTION APPROVED

JUN 30 2010

WITHOUT SIGNATURE BY OPERATION OF LAW



**AN ORDINANCE BY  
PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

**TO AMEND CHAPTER 98, ARTICLE II, DIVISION 2, SECTIONS 98-63 AND 98-64; CHAPTER 114, ARTICLE IV, DIVISION 1, SECTION 114-79; CHAPTER 114, ARTICLE IV, DIVISION 7, SUBDIVISION II, SECTIONS 114-229 AND 114-230; CHAPTER 114, ARTICLE VI, DIVISION 1, SECTION 114-502; AND CHAPTER 114, ARTICLE VI, DIVISION 3, SECTIONS 114-546 AND 114-553, SO AS TO CHANGE THE NONDISCRETIONARY RANK OF POLICE CAPTAIN TO A DISCRETIONARY RANK; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

**WHEREAS**, the commander of an Atlanta Police zone must hold the rank of Police Major; and

**WHEREAS**, the duties and responsibilities of the zone commander include supervising the various watch commanders who hold the rank of Police Lieutenant; and

**WHEREAS**, the supervisory responsibilities of a zone commander are constant, and therefore each zone is also assigned an assistant zone commander; and

**WHEREAS**, the rank of Police Captain is below that of Police Major and above that of Police Lieutenant; and

**WHEREAS**, currently, the rank of Police Captain is a non-discretionary rank; and

**WHEREAS**, the Atlanta Police Department has not administered the Captain's promotional exam since 1993; and

**WHEREAS**, there are no current members of the Atlanta Police Department who hold the rank of Captain; and

**WHEREAS**, because there are no current Police Captains, various lieutenants have been designated as assistant zone commanders; and

**WHEREAS**, the level of supervisory responsibility of the position of assistant zone commander and comparable supervisory positions, require that they be ranked above lieutenant and that appointments thereto be made at the discretion of the police chief; and

**WHEREAS**, it is the desire of the City of Atlanta to re-classify the supervisory rank of Police Captain as a discretionary rank in order to so designate assistant zone commanders and comparable supervisors.



**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS** as follows:

**SECTION 1.** That Chapter 98, Article II, Division 2, Section 98-63, of the City of Atlanta Code of Ordinances shall be deleted in its entirety and replaced such that it shall read as follows:

**Sec. 98-63. Applicability.**

The rules and procedures in this division shall apply to promotions in the department of police to the ranks of police sergeant **and** lieutenant. ~~and captain.~~

**SECTION 2.** That Chapter 98, Article II, Division 2, Section 98-64, of the City of Atlanta Code of Ordinances shall be deleted in its entirety and replaced such that it shall read as follows:

**Sec. 98-64. Ranking of members.**

(a) Sworn members of the department of police in the nondiscretionary ranks of police officer, sergeant, lieutenant and captain on the effective date of the ordinance from which this section derives shall be given status in the nondiscretionary ranks they hold as of that date. Sworn members of the department of police holding discretionary ranks on the effective date of the ordinance from which this section derives shall be given status in the nondiscretionary ranks they held at the time they were appointed to the most recent discretionary ranks.

**(b) Effective July 1, 2010, the rank of Police Captain was reclassified as a discretionary rank.**

**SECTION 3.** That Chapter 114, Article IV, Division 1, Section 114-79(e)(2), of the City of Atlanta Code of Ordinances shall be deleted in its entirety and replaced such that it shall read as follows:

**Sec. 114-79. Civil Service Board.**

(e) The board shall conduct its business in the manner provided in Appendix III and shall perform the following functions:

(2) Hold hearings when requested by an employee or an appointing authority on final demotions, suspensions, dismissals or other such adverse actions with reference to the classified service and have power to make final determinations and dispositions in such matters. Hearings may also be held for sworn officers who hold the position of ~~captain~~ **lieutenant** and any rank below that of ~~lieutenant~~ ~~captain~~ in of the department of police and **sworn officers who hold the rank of captain and any rank below that of captain in the** department of fire when such a hearing is requested. No officer or employee of the department of police or



department of fire who is in a probationary status of initial employment with the department shall be entitled to a hearing.

**SECTION 4.** That Chapter 114, Article IV, Division 7, Subdivision II, Section 114-229, of the City of Atlanta Code of Ordinances shall be deleted in its entirety and replaced such that it shall read as follows:

**Sec. 114-229. Applicability.**

This subdivision shall apply to promotions to the supervisory and mid-management ranks of sergeant **and** lieutenant ~~and captain~~ in the department of police, lieutenant and captain in the department of fire, and sergeant, lieutenant and captain in the department of corrections.

**SECTION 5.** That Chapter 114, Article IV, Division 7, Subdivision II, Section 114-230, of the City of Atlanta Code of Ordinances shall be deleted in its entirety and replaced such that it shall read as follows:

**Sec. 114-230. Status of present sworn members.**

(a) Sworn members in the nondiscretionary ranks of police officer, sergeant, lieutenant and captain in the department of police and firefighter, lieutenant and captain in the department of fire, on the effective date of the ordinance from which this subdivision derives [March 27, 2007] and sworn members in the nondiscretionary ranks of corrections officer, sergeant, lieutenant and captain in the department of corrections on the amended date of the ordinance from which this subdivision derives [June 15, 1999] shall be given status in the nondiscretionary rank they hold as of that date. Sworn members of the department holding discretionary ranks on the effective date of the ordinance from which this subdivision derives, or the amended date as applicable, shall be given status in the non-discretionary rank they held at the time they were appointed to their first discretionary rank.

(b) **Effective July 1, 2010, the rank of Police Captain was reclassified as a discretionary rank.**

**SECTION 6.** That Chapter 114, Article VI, Division 1, Section 114-502, of the City of Atlanta Code of Ordinances shall be deleted in its entirety and replaced such that it shall read as follows:

**Sec. 114-502. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adverse action* means a disciplinary action taken for cause by a department head or designee which results in suspension without pay, demotion or dismissal of a regular, nonprobationary employee in the classified service of the city or any regular nonprobationary



sworn officer of the department of police **who holds the rank of lieutenant or below** or **any regular nonprobationary sworn officer of the** department of fire who holds the rank of captain or below. It does not include actions which result from challenging the decision to implement or the scope of a reduction in force or actions resulting from insufficient funds, decrease in funds or departmental reorganization or denial of annual increase based on the employee receiving a less than effective performance evaluation. Adverse actions may be appealed to the civil service board.

*Appeal* means a written request by an employee for review by the civil service board of an adverse action, removal from the eligible list, procedures used in a reduction in force or unjust coercion or reprisal as provided in this article.

*Appointing authority* means the official, group of officials, acting official or other person designated by the proper authority having the power of appointment, employment or election to or removal from subordinate positions in the city employment service.

*Board* means the civil service board of the city.

*Classified service* means that which is referenced in 114-84.

*Commissioner*, unless otherwise specified, means the commissioner of human resources.

*Counseling* means a deliberation or discussion between employee and supervisor in which the employee's supervisor advises the employee regarding the appropriateness of work-related attitudes, behaviors, actions, conduct or performance of the employee and where necessary offers assistance or advise in correcting such.

*Days*, unless otherwise specified, means working days.

*Demotion* means a change of employment to a position in a class which has a lower maximum salary limit than the class from which the assignment was made. A reduction in pay shall not be deemed a demotion for cause if such reduction results from a demotion during a probationary period such that the employee is returned to the position held immediately prior to the promotion, a reduction in force, insufficient funds, decrease in funds, departmental reorganization or a change of appointment made in the discretion of the appointing authority as provided by this Code and shall not be appealable under this article.

*Disciplinary action* means an action taken for cause by a department head or designee which results in an oral admonishment, a written reprimand, demotion, suspension with or without pay or dismissal of a regular nonprobationary employee in the classified service of the city or any regular nonprobationary sworn officer of the department of police **who holds the rank of lieutenant or below** or **any regular nonprobationary sworn officer of the** department of fire who holds the rank of captain or below. Disciplinary actions include all adverse actions. Only those disciplinary actions which are adverse actions, suspension without pay, demotions or dismissals, by definition of this article, are appealable to the civil service board.



*Dismissal* means the discharge, termination or removal of an employee from employment with the city.

*Eligible* means a person who has qualified to be placed on a list or register of persons eligible for employment with the city pursuant to article IV of this chapter pertaining to civil service.

*Grievance* means a written request by an employee for review of an allegation which describes a work-related event or a condition of employment which the employee reasonably believes is unfair in light of the rules, regulations and standards which govern the employment relationship with the city.

*Hearing officer* means a member of the civil service board appointed by the mayor and confirmed by the council as provided in this article and who is designated in routine rotation sequence to hear appeals filed with the civil service board.

*Hearing panel* means three members of the civil service board who are designated in routine rotation sequence to hear appeals of dismissals filed with the civil service board.

*Oral admonishment* means a verbal discussion by a supervisor with an employee calling attention to the employee's substandard work performance or inappropriate conduct and requiring correction of the substandard work performance or inappropriate conduct within a specified timeframe.

*Performance evaluation* means a periodic written report approved by the appointing authority or designee relative to the work-related conduct and performance of the employee and which is issued in accordance with article IV of this chapter.

*Probationary employee* means any employee appointed to a regular position who has not completed the required probationary period in a given class qualifying the employee for regular employment in that class served in accordance with article IV of this chapter.

*Reprimand* means a written report to an employee by a supervisor calling attention to the employee's substandard work performance or inappropriate conduct and requiring correction of the substandard work performance or inappropriate conduct within a specified timeframe.

*Separation* means termination of the employment relationship.

*Suspension* means the temporary removal of an employee from a position of employment with the city with or without pay.



**SECTION 7.** That Chapter 114, Article VI, Division 3, Section 114-546 (1), of the City of Atlanta Code of Ordinances shall be deleted in its entirety and replaced such that it shall read as follows:

**Sec. 114-546. Right to file appeal.**

- (1) *Adverse actions.* Any nonprobationary employee in the classified service or any nonprobationary sworn officer of the department of police **who holds the rank of lieutenant or below that of lieutenant** or **sworn officer of the** department of fire who holds the rank of captain or any rank below that of captain shall have the right to file an appeal of an adverse action, i.e., suspension, demotion or dismissal, to the civil service board pursuant to the procedures in this article.

**SECTION 8.** That Chapter 114, Article VI, Division 3, Section 114-553 (b), of the City of Atlanta Code of Ordinances shall be deleted in its entirety and replaced such that it shall read as follows:

**Sec. 114-553. Decision of hearing officer/panel.**

- (b) *Finality of decision.* The decision of the hearing officer/panel shall be binding on both parties. For appeals of adverse actions, the hearing officer/panel may modify the action of the appointing authority but may not increase the severity of such action on the employee. If the appellant is a nonprobationary sworn officer of the department of police **who holds the rank of lieutenant or below that of lieutenant** or **sworn officer of the** department of fire who holds the rank of captain or any rank below that of captain, the hearing officer/panel may not modify, but must affirm or revoke a suspension or demotion and may affirm, revoke or modify a dismissal to no less than a 30-day suspension. The appointing authority shall promptly comply with the final decision as may be issued as a result of the appeal.

**SECTION 9.** The amendments in this ordinance shall become effective July 1, 2010.

**SECTION 10.** That all ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

ADOPTED by the Atlanta City Council  
RETURNED WITHOUT SIGNATURE OF THE MAYOR  
APPROVED as per City Charter Section 2-403

JUN 21, 2010

JUN 30, 2010

A true copy,

  
Municipal Clerk

RCS# 362  
6/21/10  
7:11 PM

Atlanta City Council

REGULAR SESSION

10-O-0952

CHANGE NONDISCRETIONARY RANK OF POLICE  
CAPTAIN TO DISCRETIONARY RANK  
ADOPT

YEAS: 12  
NAYS: 1  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 1  
ABSENT 0

Y Smith	Y Archibong	N Moore	Y Bond
Y Hall	Y Wan	Y Martin	NV Watson
Y Young	Y Shook	Y Bottoms	E Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell