

ORDINANCE NO. 25-2010
AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
PERTAINING TO "AT-WILL" EMPLOYMENT
FOR THE CITY OF TYBEE ISLAND, GEORGIA

WHEREAS, the duly elected governing authority for the City of Tybee Island, Georgia, is authorized under Article 9, Section 2, Paragraph 3 of the Constitution of the State of Georgia to adopt reasonable ordinances to protect and improve the public health, safety, and welfare of the citizens of Tybee Island, Georgia, and

WHEREAS, the duly elected governing authority for the City of Tybee Island, Georgia, is the Mayor and Council thereof, and

WHEREAS, the governing authority desires to adopt ordinances under its police, zoning, and home rule powers, and

WHEREAS, the City of Tybee Island so as to clarify the provisions with respect to the status of all employees so as to amend in particular Section 46-23(a)(4), Section 46-24(d), Section 46-33(a)(4), Section 46-33(b), Section 46-33(c) and Section 46-35 regarding "at-will" employment, and

NOW, THEREFORE, be it ordained by the governing authority of the City of Tybee Island that the above referenced sections of the Code of Ordinances of the City of Tybee shall be deleted and shall hereafter read as follows:

Section 46-23(a)(4): Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance and separating employees when deemed appropriate and necessary;

Section 46-24(d): *At-Will Employees*. The City Manager and the City Clerk shall be "at-will" employees, serving at the pleasure of the City Council, within the classified service of the City and all other employees within the classified service of the City shall be deemed to be "at-will" consistent with the provisions of the Charter. By providing for notices, hearings and appeals the City is in no manner altering the "at-will" status of employees in any respect.

Section 46-33(a)(4): *Dismissals*. Dismissals are necessary as a result of inadequate or inefficient performance or when such action is deemed necessary and appropriate by the supervisor and/or the City Manager. Consistent with the provisions of the City's Charter, employees serve "at-will" and can be dismissed with or without cause.

Section 46-33(b): Causes for discipline. Notwithstanding any other provision hereof or the progressive discipline system provided for herein or which may hereafter be established, the at-will status of employees contemplated by the City's Charter is at all times applicable. In addition, an employee may be reprimanded, suspended, demoted or dismissed for the following reasons:

- (1) Incompetence or inefficiency in the performance of the duties of the position;
- (2) Violation of any lawful official regulation or order, or failure to obey any proper direction made and given by a superior;
- (3) Misappropriation, destruction, theft or conversion of city property;
- (4) Falsification of any information required by the city;
- (5) Negligence or carelessness resulting in damage to city property or equipment;
- (6) Offensive conduct or language in public or toward the public, city officials, or fellow employees, either on or off duty;
- (7) Habitual tardiness and/or absenteeism;
- (8) Takes for personal use from any person, any fee, bribe, gift, token, monies or other valuable things given in the hope or expectation of receiving a favor or better treatment than that accorded other persons; nor shall the employee accept any fee, bribe, gift, token, monies or other things of value intended as an inducement to perform or refrain from performing any official act;
- (9) Introduction, possession or unlawful use on city property or in city equipment of controlled substances as defined by O.C.G.A. §§ 16-13-25--16-13-29;
- (10) Employee subsequently becomes physically or mentally unfit for the performance of duties;
- (11) Absences without leave or failure to give proper notice of absences;
- (12) Conviction of a felony or other crime involving moral turpitude;
- (13) Willful violation of any provision of this policy;
- (14) Sexual harassment.

Disciplinary action against an employee based on age, creed, national origin, race or sex, or for partisan reasons shall be considered a violation of these rules.

Section 46-33(c):

1. *Informal disciplinary hearing.* Before an employee other than a department head is suspended without pay, demoted, or dismissed from employment, he shall be entitled to an informal hearing before the department head. At least 12 hours prior to such a hearing, the employee will be furnished with a written notice stating the disciplinary action contemplated, and the reasons for such actions. This notice should advise the employee that he will have an opportunity to respond in writing and/or orally before the department head at the time of the hearing so as to effectively rebut the reasons for disciplinary action contemplated. Following the hearing the department head shall confer with the city manager and personnel director, obtain the

city manager's approval of appropriate action to be taken, and orally and in writing advise the employee of his decision; and in the event that disciplinary action is taken against the employee the department head shall orally and in writing advise the employee of the reasons for such action and that the employee may appeal the department head's decision. If disciplinary action is taken, it shall become effective immediately. A notice of the action taken, with a statement of the reasons therefor, will be filed in the office of the personnel director prior to closing of the succeeding business day.

2. Disciplinary action against department heads shall be administered by the City Manager in accordance with a hearing procedure requiring at least 12 hours notice to the department head and the opportunity for the department head to respond and present evidence. No appeal is permissible from the City Manager's decision by a department head.

Section 46-35. Appeal of disciplinary action for employees other than department heads:

After any suspension without pay, demotion, or dismissal from city employment, the affected employee shall have the right to appeal within five days after the effective date of the disciplinary action. The employee should notify the city manager in writing of his desire to have a hearing. The city manager shall promptly notify the employee of the time of the hearing in writing, the reasons for the disciplinary action taken, the names and the nature of the testimony of the witnesses against him, and that the employee will have an opportunity to present evidence on the issues.

Section 46-36. Grievances:

(d) *Meeting to discuss grievance.* The city manager shall convene a meeting within ten days to consider the grievance. The employee and the department head shall have the right to appear and be heard. The city manager shall take appropriate action which may include a recommendation to change the personnel rules and regulations, a finding that the grievance is unjustified or a finding that the situation is not subject to the grievance procedure or not a grievable matter or any other appropriate recommendation or determination.


It is the intention of the governing body, and it is hereby ordained, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Tybee Island,

Georgia, and the sections of this ordinance may be renumbered if necessary to accomplish such intention.

All other provisions in the ordinance remain in full force and effect.

This Ordinance shall become effective on 24th day of FEBRUARY, 2011.

ADOPTED THIS 24TH DAY OF FEBRUARY, 2011.


MAYOR

ATTEST:


CLERK OF COUNCIL

FIRST READING: 2/10/2011

SECOND READING: 2/24/2011

ENACTED: 2/24/2011

EMH/TYBEE/ORDINANCES/2010/25-2010 At will employment 03.01.11