

NO ACTION TAKEN

COUNCIL BILL NO. 6115

ORDINANCE NO. 3015

ORDINANCE

AN ORDINANCE OF THE CITY OF MANITOU SPRINGS, COLORADO, AMENDING CERTAIN PROVISIONS OF CITY OF MANITOU SPRINGS POLICE DEPARTMENT POLICY MANUAL

WHEREAS, the City recognizes the importance of adopting clear personnel policies;

WHEREAS, the City also recognizes the importance that the City of Manitou Springs Police Department have its own departmental policy while its members remain subject to the more general provisions of the City of Manitou Springs Personnel Manual; and

WHEREAS, in order to streamline and eliminate conflicting and confusing provisions of the City of Manitou Springs Police Department Policy Manual and the City's Personnel Manual, City Council finds that it is the best interest to amend certain provisions of the City of Manitou Springs Police Department Policy Manual.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANITOU SPRINGS, COLORADO, THAT:

Section 1: Policy 106, Section 106.1 of the City of Manitou Springs Police Department Policy Manual is hereby amended as follows:

The manual of the Manitou Springs Police Department is hereby established and shall be referred to as the Manual. The Manual is a statement of the current policies, procedures, rules and guidelines of this department. All employees are to conform to the provisions of this manual. All prior and existing manuals, orders and regulations for this department are rescinded.

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that law enforcement is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

Employees of the Police Department are also subject to the City of Manitou Springs Personnel Manual ("Personnel Manual"). To the extent this Manual conflicts with the Personnel Manual, the Personnel Manual shall control.

Section 2: Policy 340, Section 340.4 of the City of Manitou Springs Police Department Policy Manual is hereby amended as follows:

340.4 INVESTIGATION OF DISCIPLINARY ALLEGATIONS

Regardless of the source of an allegation of misconduct, all such matters will be investigated pursuant to state or local law and in accordance with the Personnel Complaint Procedure Policy.

Section 3: Policy 340, Section 340.6(f) of the City of Manitou Springs Police Department Policy Manual is hereby amended as follows:

- (f) Once the employee has completed his/her response, or, if the employee has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. If the discipline involves the loss of pay and/or benefits, the Chief of Police shall forward to the City Administrator his or her recommendation and all accompanying materials. The City Administrator shall approve any disciplinary action involving the loss of pay and/or benefits. The Chief of Police shall thereafter render a timely written decision to the employee imposing, modifying or rejecting the recommended discipline. In the event of a termination, the final notice of discipline shall also inform the employee of the reasons for termination and the process to receive all remaining fringe and retirement benefits.

Section 4: Policy 340, Section 340.8 of the City of Manitou Springs Police Department Policy Manual is hereby amended as follows:

All members of the Department who receive formal disciplinary action amounting to a suspension, demotion, termination or transfer where the individual will receive lesser compensation may appeal the disciplinary decision in accordance with the City's Personnel Manual. An officer may seek judicial relief after exhausting administrative remedies through the district court.

Section 5: Policy 1002, Section 1002.8 of the City of Manitou Springs Police Department Policy Manual is hereby amended as follows:

1002.8 EVALUATION REVIEW

After the supervisor finishes the discussion with the employee, the performance evaluation is forwarded to the Chief of Police. The Chief of Police shall forward the evaluation to the City Administrator. The City Administrator shall review the evaluation and provide any additional input and observation. The Chief of Police shall review the evaluation for fairness, impartiality, uniformity and consistency and approve the evaluation. The Chief of Police shall use the quality of performance ratings prepared as a factor to evaluate the supervisor. After the Chief of Police and the City Administrator review the evaluation, including

adding their input, the evaluation shall be forwarded to the supervisor and employee for signatures.

Section 6: Policy 1006, Section 1006.2(d) of the City of Manitou Springs Police Department Policy Manual is hereby amended as follows:

1006.2 PROCEDURE

(d) If the employee and the Chief of Police are unable to arrive at a mutual solution, the employee shall submit a written statement of the grievance and deliver one copy to the City Administrator and another copy to the Chief of Police and the immediate supervisor that includes the following information:

1. The basis for the grievance (e.g., the facts of the case).
2. Allegation of the specific wrongful act and the harm done.
3. The specific policies, rules or regulations that were violated.
4. The remedy or goal being sought by the grievance.

The employee shall receive a copy of the acknowledgement signed by the supervisor including the date and time of receipt.

The City Administrator will review and analyze the facts or allegations and respond to the employee within five business days. The response will be in writing and will affirm or deny the allegations. The response shall include any remedies if appropriate. The decision of the City Administrator is considered final.

Section 7: Policy 1020, Section 1020.4.1(e) of the City of Manitou Springs Police Department Policy Manual is hereby amended as follows:

It shall be the responsibility of the assigning supervisor to promptly notify the employee's Supervisor and the Chief of Police. In addition, any administrative leave imposed without pay must be approved by the City Administrator and the Chief of Police.

Section 8: Policy 1020, Section 1020.5 of the City of Manitou Springs Police Department Policy Manual is hereby amended as follows:

Where an employee of this Department is accused of potential criminal conduct, a separate supervisor or assigned investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation and/or any prosecution.

The Chief of Police shall be notified as soon as practicable when an employee is formally accused of criminal conduct. The Chief of Police shall notify the City Administrator. In the event of serious criminal allegations, the Chief of Police, with approval of the City Administrator, may request that a criminal investigation by an outside law enforcement or prosecutorial agency be conducted parallel to the administrative investigation.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian under the state and federal constitutions and the employee may not be administratively ordered to provide any information to a criminal investigator.

No information or evidence administratively compelled from an employee may be provided to a criminal investigator.

Any law enforcement agency is authorized to release limited information concerning the arrest or detention of a peace officer which has not led to a conviction. However, no disciplinary action, other than administrative leave, shall be taken against the accused employee based solely on an arrest or crime report. An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with Department policy.

Section 9: If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 10: The repeal or modification of any provision of Manitou Springs Municipal Code by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 11: This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.