

ORDINANCE

AN ORDINANCE OF THE CITY OF MANITOU SPRINGS, COLORADO, AMENDING CERTAIN PROVISIONS OF THE MANITOU SPRINGS PERSONNEL MANUAL REGARDING THE DEFINITION OF A FULL TIME EMPLOYEE, ADJUSTMENTS TO BENEFITS AND LEAVE ACCRUAL, ELIMINATING THE PROBATIONARY PERIOD, ADDING A SICK LEAVE DONATION PROGRAM, REVISING REFERENCES TO THE HUMAN RESOURCES DIRECTOR AND UPDATING OVERTIME PROVISIONS.

WHEREAS, to comply with the requirements of the Affordable Care Act, the City desires to change its definition of full time employee;

WHEREAS, the City also wants to extend vacation and sick leave, on a prorated basis, to employees who will be considered full time, but who work less than forty hours per week;

WHEREAS, the City no longer finds it necessary to provide for a probationary period and desires to discontinue the probationary period for new employees;

WHEREAS, the City desires to create a sick leave donation program to afford employees the opportunity to assist other employees with leave under specific circumstances;

WHEREAS, the City has created the role of Human Resources Director and desires to clarify roles between the Human Resources Director and the City Clerk; and

WHEREAS, the City wants to clarify the overtime compensation for fire and police department personnel.

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

Section 1: Sections III(A)(6), (11) and (13) are revised to read as follows:

6. Full-time regular employee means an employee hired to work *at least 30 hours per week* ~~40 hour week weeks~~ on a regular basis. ~~(56 hour work weeks for fire department personnel)~~ *Full-time employees are eligible for leave and insurance benefits as provided by this Manual.*
11. Part-time regular employee means an employee hired to work fewer than ~~40~~ 30 hours per week on a regular basis. ~~Part-time, seasonal or temporary employees are not eligible for holiday pay, vacation leave, sick leave, FMLA, bereavement leave, administrative leave, court time, voting leave or insurance benefits.~~

13. Temporary or seasonal employee means an employee engaged in work ~~full-time or part-time~~ with the understanding that the employment will be terminated at the completion of a specific project or at a specified time. *Seasonal or temporary employees are not eligible for leave or insurance benefits.*

Section 2: Section IV(B)(2) is revised to read as follows:

2. The Appointing Authority may order a position to be filled by an internal application process. If so ordered, the position shall be open only to then-current employees of the City who meet the minimum qualifications for the position. ~~Any current employee who is appointed to fill such a position shall be subject to a probationary period as provided in Section E of this chapter.~~ The vacancy will be announced by posting an announcement a minimum of seven calendar days in advance of hiring. Announcements shall be posted in City Hall. ~~for a period of at least seven working days.~~ Such announcements will contain but not be limited to the following information: job title, salary range, essential job functions, minimum qualifications, the time and place for making application and any other license or certification requirements.

Section 3: Section IV(E) is deleted in its entirety and the remaining sections renumbered accordingly.

~~E. PROBATIONARY PERIOD~~

- ~~1. The probationary period is an integral part of the hiring process utilized by the City to train and aid the new employee in adjustment to the position and to dismiss any such employee whose work performance fails to meet required work standards. During this period, no disciplinary action may be appealed by the employee.~~
- ~~2. All full-time City employees will be subject to a twelve month probationary period. Any approved leave without pay or use of sick leave in excess of one (1) week shall extend this period proportionately.~~
- ~~3. Employees promoted or transferred to another department or position shall also serve a twelve month probationary period. A transferred or promoted employee who fails the probationary period may be terminated if the previous position held has been satisfactorily filled.~~
- ~~4. The probationary period may be extended by the employee's supervisor, with the concurrence of the City Administrator, by up to ninety days. The employee will be notified in writing of this extension.~~

5. ~~A full-time probationary employee will be evaluated two times during his probationary period. The first evaluation will cover the employee's first six months of employment. The second evaluation will be given prior to the twelve-month anniversary date. These evaluations will be in writing, using the City's standard evaluation form, and given to the City Clerk for inclusion in their personnel file.~~
6. ~~An appointment to a full or part-time position which is temporary, seasonal, or intermittent in nature does not require that the employee serve a probationary period. Temporary, seasonal, or intermittent employees are not eligible for City benefits. In no event shall a temporary appointment exceed twelve (12) months.~~

Section 4: Section VI(L)(1)(a) is revised to read as follows:

- a. Office personnel: Administration *Department*, City Clerk *Department*, Human Resources *Department*, Court Clerk, Finance *Department*, Planning *Department*, ~~Library, Communications~~, and Police Clerk must wear attire appropriate for an office environment.

Section 5: Sections VIII(A)(2) and (5) are revised to read as follows:

2. When the holiday listed above falls on a Sunday, the following Monday shall be considered a holiday, and when the holiday listed above is on a Saturday, the preceding Friday shall be considered a holiday. *Full-time employees who are hired to work at least forty (40) hours a week receive compensation for a holiday for eight (8) hours. Full-time employees who are hired to work between 30 and 39 hours a week shall receive pro-rated holiday compensation based upon their work schedule.*
5. The "personal day" referred to in the list in paragraph 1 hereof accrues on the first day of January of each year for all employees on the payroll as of that date, and it must be taken in the same calendar year or it is forfeited. An individual who commences employment with the City after the first of January is not eligible for a personal day until the first day of January of the following year. For Fire personnel, a personal day shall consist of twenty-four (24) hours rather than eight (8) hours. *Full-time employees who are hired to work between 30 and 39 hours a week shall receive a pro-rated personal day based upon their work schedule.*

Section 6: Section VIII(B)(1) is revised by the additions of subsections (a), (b) and (c) to read as follows:

- a. Full-time employees *hired to work at least 40 hours a week, except for Fire Department personnel,* will accrue vacation leave as follows:

Years Employed	Vacation Time Per Year	
0-1	5 days	(40 hours)
2-4 0-4	10 days	(80 hours)
5-9	15 days	(120 hours)
10-19	20 days	(160 hours)
20+	25 days	(200 hours)

- b. *Full-time employees hired to work between 30 to 39 hours a week will accrue vacation leave based upon the above schedule multiplied by the percentage of 40 hours per week the employee works for each bi-weekly period that vacation leave accrues.*
- c. *Vacation leave is accrued on a bi-weekly basis.*

Section 7: Sections VIII(B)(2), (4), and (7) are revised to read as follows:

- 2. ~~Vacation leave is provided for each full time employee. Employees in their *initial* probationary period accrue but cannot use vacation leave until they have successfully completed their probationary period. Vacation leave will not be paid if an employee is terminated or resigns during his/her *initial* probationary period. However, *e*Earned vacation leave is paid at termination to an employee.~~
- 4. ~~Vacation may be utilized only with the prior approval of employee's Department Manager *and only after the vacation leave to be used has accrued.* Vacation may not be taken in increments less than one-quarter (1/4) hour. ~~Employees shall submit tentative vacation plans on January 1st of each year.~~ Managers will ensure that at no time the workforce will be depleted to the extent work productivity will be diminished.~~
- 7. ~~In the case of death of the employee, accrued, unused vacation shall be paid to the employee's spouse or, if there is no surviving spouse, to the employee's estate ~~only if the employee is not in his probationary period.~~~~

Section 8: Section VIII(C)(1) is revised as follows:

Certain key personnel in the City are expected and required to put in the time necessary to meet their responsibilities. It is necessary in these positions for employees to work numerous hours *beyond 40 hours a week. ~~of overtime.~~* Because these positions are classified as "exempt" they are not entitled to accumulate and utilize compensatory time. In lieu of compensatory time, key employees are granted leave as approved by the City Administrator as follows:

- a. City Clerk 5 days
- b. Police Chief 5 days
- c. Finance Director 5 days
- d. Public Services Director 5 days

- e. Planning Director 5 days
- f. Aquatics Director 5 days
- ~~g. Library Director 5 days~~
- g. City Administrator 5 days
- h. Hazard Mitigation & Resiliency Manager 5 days

Section 9: Section VIII(D)(1) is revised to read as follows:

1. Full-time employees *hired to work at least forty (40) hours a week* will accrue eight (8) hours of sick leave each month. *Full-time employees hired to work between 30 and 39 hours a week will accrue vacation leave based upon the above schedule multiplied by the percentage of 40 hours per week the employee works for each month that vacation leave accrues.* Sick leave may be used for absences caused by illness, injury, pregnancy, temporary disability, medical exams, or medical treatment of the employee or the employee’s immediate family. For the purpose of determining eligibility for sick leave, “immediate family” is defined to mean spouse, significant other, child, parent or siblings. Sick leave is not a substitute for vacation. If sick time is taken, the employee must report the reason for the absence to the Department Manager on the first day of the absence and prior to the start of the scheduled work day. The employee shall also inform the Department Manager of the expected date of the employee’s return to work.

Section 10: Section VIII(H)(2) is revised to read as follows:

2. For purposes of bereavement leave, an employee’s “immediate family” ~~also includes his or her grandparents and the grandparents of his or her spouse or significant other~~ *an employee’s spouse or significant other and the children, parents, grandparents and siblings of the employee and of the employee’s spouse or significant other.*

Section 11: Section VIII is amended by the addition of a new subsection L as follows:

L. SICK LEAVE DONATION POLICY

- a. *Employees may donate accumulated sick leave hours to a bank for distribution to aid another employee who is unable to work due to a medical condition or who needs time off to care for a family member with a medical condition. A “medical condition” under this Section is a condition that will require the prolonged absence of the employee from duty and will result in a substantial loss of income to the employee because the employee will have exhausted all paid leave available to that employee.*
- b. *To make a donation, donating employees must submit a signed statement indicating the number of earned sick leave hours the employee wishes to*

donate to the sick leave bank. The statement shall be submitted to the City's payroll manager with the written authorization of the employee's supervisor. Donation forms are available from the City's payroll manager. The donations must be in full hour increments. Employees wishing to donate sick leave hours to the donation bank must do so on a strictly volunteer basis. No employee may donate more than 80 hours of sick leave per calendar year and may not donate if the donation will cause the employee's accrued sick hours to be less than 240 hours at the time of the donation.

- c. To receive a donation from the sick leave bank, the recipient must have exhausted all of his or her own sick leave, vacation leave, and other paid time off. The recipient must submit a signed request, on forms available from the payroll manager, along with the employee's supervisor's signature, for a specified number of hours for the medical condition as described above. All hours must be taken as time off. No cash payments for donated sick leave will be made to a recipient employee. If a recipient employee separates from employment after receiving, but not using, any amount of donated sick leave, that unused leave shall be credited back to the sick leave bank. The employee's supervisor, in cooperation with the ~~payroll manager~~ HR Director, will evaluate the eligibility of the recipient for donated time off based on the criteria in this Section. Based on the request, donated time off will be provided to the recipient on a week-to-week basis up to a maximum of 480 hours of donated sick leave time per calendar year.*
- d. If a recipient employee receives paid leave hours from a donating employee with a different pay rate, the leave time is converted based on the recipient employee's pay rate, so that the dollar value of the surrendered leave remains the same, but leave taken by the recipient employee is always paid at the recipient employee's regular rate of pay. For example, if the donating employee is regularly paid \$15.00 per hour and surrenders eight hours of paid leave to the bank and that leave is given to a recipient employee who is regularly paid \$10.00 per hour, the recipient employee will receive 12 hours of paid leave, paid at \$10.00 per hour (8 hours x \$15.00 = \$120 value, and \$120.00 value/\$10.00 per hour = 12 hours).*
- e. An employee may only make one donation of sick leave per calendar year.*

Section 12: Section XI(E)(2)(b) is deleted in its entirety and the remainder of the section renumbered accordingly.

~~b. Probationary period employees;~~

Section 13: Section X(A)(4) is amended as follows:

4. The City shall compensate non-exempt employees for all hours worked in excess of forty (40) hours per week at a rate of one and one-half (1½) times the employee's regular rate of pay. ~~Fire Department personnel shall be compensated for all hours worked in excess of fifty six (56) hours.~~ For purposes of calculating overtime, the workweek begins at 12:01 a.m. Sunday and ends at 12:00 midnight Saturday. *Fire Department and Police Department personnel shall be compensated at the overtime rate and schedule pursuant to department policy.* **The sick time, vacation, holiday, or other paid or unpaid leave time is not included in calculating eligibility of overtime compensation.**

Section 14: In the following sections, references to City Clerk shall be revised as follows:

- a. Sections IV(G)(1) and (2) are revised as follows:
 1. The City maintains a personnel file on each employee. The personnel file includes such information as the employee's job application, resume, records of training, documentation of performance appraisals and salary increases, and other employment records. Personnel files are the property of the City and access to the information they contain is restricted. Generally, only the City Administrator, City Clerk, Human Resources Director and Department Managers of the City who have a legitimate reason to review information in a file are allowed to do so. Payroll personnel, in the performance of their duties, may review *payroll records needed to calculate correct wages.* ~~personnel files only in the presence of the City Clerk or designee.~~
 2. Employees who wish to review their own file should contact the ~~City Clerk~~ Human Resources Director. With reasonable advance notice, employees may review their own personnel files in the presence of the *Human Resources Director* ~~City Clerk~~ or his/her designee.
- b. Section IX(C)(2) is revised as follows:
 2. Within twenty-four (24) hours of the injury or illness, the injured employee and his/her supervisor must both submit the completed Employee Report of Accident form regarding the injury or illness and the Supervisor's Accident Investigation Report to the ~~City Clerk~~ *Human Resources Director*. Supervisors must report serious injuries and fatalities immediately.
- c. Section IX(C)(8)(b) is revised as follows:
 - b. Fire Department personnel will be responsible for having the employee complete the Employer's First Report of Injury, or, if the injured worker is not able to complete the form the Fire

Department personnel will notify the Supervisor to have him/her complete the form for the injured employee. Upon completion of the form the injured employee will sign the form and the injured employees Supervisor or Fire Department personnel will also sign above the injured employee's signature. The Supervisor will also be responsible for completing the Supervisor's Accident Investigation Report. The Supervisor will forward both forms on to the ~~City Clerk~~ *Human Resources Director* within twenty-four (24) hours of the accident. The ~~City Clerk~~ *Human Resources Director* will forward copies to the City's insurance carrier.

d. Section IX(C)(8)(d) is deleted in its entirety:

~~d. The City Clerk shall be responsible for forwarding a copy of the Supervisor's Investigation Report to the Safety Committee. The Safety Committee shall review all active claims at their monthly meetings and forward any recommendations on to the City Administrator.~~

e. Section X(A)(3) is revised as follows:

3. All overtime hours worked by non-exempt employees must be authorized by the Department Manager or the City Administrator prior to working overtime hours. ~~If authorized by the Department Manager, w~~Written authorization will be given to the ~~City Clerk~~ *payroll manager to be attached to the corresponding timesheet. for documentation and then forwarded to the City Administrator.*

f. Section XI(H)(2) is revised as follows:

2. The Department Manager will forward the Exit Interview Form to the ~~City Clerk~~ *Human Resources Director*. If the employee has chosen to have an exit interview, the City Administrator's office will arrange an Exit Interview meeting time with the City Administrator and the employee. If the employee chooses not to have an exit interview, the ~~City Clerk~~ *Human Resources Director* will place the signed Exit Interview Form in the employee's personnel file.

g. Acknowledgement of Receipt of the City of Manitou Springs Personnel Manual. Reference to the City Clerk shall be revised to the Human Resources Director.

Section 15: 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 16: This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Passed on first reading and ordered published this 5th day of July, 2016.

/s/ Donna Kast
City Clerk, Donna Kast

A Public Hearing on this ordinance will be held at the July 19, 2016, City Council meeting. The Council Meeting will be held at 6:00 P.M. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published: July 7, 2016 (in full)
City's Official Website and City Hall

Passed on second reading and ordered published by City Council this 19th day of July, 2016.

/s/ Nicole Nicoletta
Mayor, Nicole Nicoletta

Attest: /s/ Donna Kast
City Clerk, Donna Kast

Ordinance Published: July 21, 2016 (in full)
City's Official Website and City Hall