

ORDINANCE

AN ORDINANCE AMENDING THE CITY OF MANITOU SPRINGS' PERSONNEL MANUAL

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

Section 1: Subsection (A)(1)(b) of Section III of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

b. Appointing Authority means the City Administrator.

Section 2: Subsection (D)(1) of Section IV of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

1. Applications received for a full-time vacant position shall be forwarded to the Department Manager for review. The Department Manager shall forward his recommendation to the City Administrator for hiring approval. Except as otherwise provided, the City Administrator, as the Appointing Authority, shall have the authority to make any and all hiring and appointing determinations. The hiring of the City Administrator, City Attorney, Municipal Court Prosecuting Attorney and City Clerk positions are handled by the City Council.

Section 3: Subsection (C)(2) of Section V of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

2. The employee shall inform the City of the sexual harassment by notifying the City Administrator, the employee's Immediate Supervisor, Department Manager, the City Council, or the Mayor, as the employee chooses. The notification may be in the form chosen by the employee; the employee is urged to put the notification in writing.

Section 4: Subsection (C)(3) of Section V of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

3. No employee shall be subjected to reprisal or retaliation for making such a notification. The employee should report immediately to the Supervisor, Department Manager, City Administrator or City Council any incidents of reprisal, retaliation, or harassment which occur as a result of making such a notification.

Section 5: Subsection (B)(5) of Section VI of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

5. Any employee who experiences any of the foregoing, whether from a member of the public, a co-worker, a supervisor, or other person, should report the same promptly to the City Administrator, a Supervisor, Department Manager, City Council, or Mayor, as the employee chooses. The notification may be in the form chosen by the employee; the employee is urged to put the notification in writing.

Section 6: Subsection (B)(6) of Section VI of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

6. No employee shall be subjected to reprisal or retaliation for making such a notification; the employee should report immediately any incidents of reprisal, retaliation, or harassment to the Supervisor, Department Manager, City Administrator or City Council which occur as a result of making such a notification.

Subsection (E) of Section VI of the City of Manitou Springs, Colorado Personnel Manual, shall be added as follows and all subsequent subsections will be reordered accordingly:

E. TOBACCO-FREE WORKPLACE

1. **Purpose:** The City of Manitou Springs is concerned about the health, safety and well-being of its employees and the visitors to City facilities. The use of tobacco products can affect the health of employees and visitors by direct and indirect exposure. Therefore, the use of tobacco products will be limited to outside smoking areas only.

Scope: This guideline covers all employees, while on City property.

Guideline:

1. All City facilities are declared tobacco free and use of tobacco will be limited to outside areas only.
2. Facilities, as contemplated by this section, will include but not be limited to all buildings where employees work on a full-time basis and that are visited by the general public and the property immediately surrounding those buildings.
3. Facilities also include any vehicle owned by the City.
4. All smoking in public buildings shall also be subject to the applicable Clean indoor Air ordinance 6.55 adopting restrictions set forth by Colorado law, pursuant to CRS §25-14-102, et. seq.
5. **Enforcement -** An employee of the City Government will be subject to disciplinary action for failure to comply with this guideline.
6. Visitors will be made aware of the tobacco-free facilities through signage. They will be asked to refrain from tobacco use if they are observed to be in violation of this guideline.

Section 7: Subsection (A)(3) of Section VII of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

3. Whether or not an employee's performance, conduct or behavior warrants disciplinary action is within the sole judgment and discretion of the City Administrator, as is the appropriate type of discipline in an appropriate instance. The City does not intend by this Manual to create any expectation that any employee will be assured of any particular form of disciplinary action, such as warning or notice, or progressive discipline, prior to termination. Rather, discipline shall in all cases be imposed at the City's discretion, in consideration of factors the City deems relevant.

Section 8: Subsection (D)(2)(c) of Section VII of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

c. SUSPENSION WITH OR WITHOUT PAY

The City Administrator shall make a determination, in his or her sole discretion, to suspend an employee with or without pay. All suspensions with or without pay shall be in writing. Immediate Supervisors, Department Managers or the City Administrator may suspend a person from the job for a serious infraction or safety reasons. Prompt notification of the relieving of such employee will be given to the City Administrator.

Section 9: Subsection (D)(2)(d) of Section VII of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

d. DEMOTION

An employee may be demoted to a position having a lower level of duties, responsibilities, and/or pay. The City Administrator shall make a determination, in his or her sole discretion, as to any demotion. Written notice explaining the reason for the demotion must be given or sent to the employee.

Section 10: Subsection (D)(2)(e) of Section VII of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

e. TERMINATION

Termination shall take place upon the formal written order of the City Administrator, detailing the nature and severity of the infraction, the past record of the subject employee, and any other factors relating to the termination.

Section 11: Subsection (D)(3) of Section VII of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

3. There is no express or implied right to receive a corrective action or counseling prior to or in conjunction with a disciplinary action. Action taken by the City

Administrator, a supervisor, or a department official in one case does not establish a precedent with respect to any other case.

Section 12: Subsection (E) of Section VII of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

E. APPEALS BOARD

1. The City Council shall appoint an Appeals Board consisting of three members who shall be registered electors of the City and serve without compensation. No member of the Appeals Board shall hold another elective or appointive City office or be a salaried employee during his or her tenure on the Appeals Board.
2. An aggrieved employee may appeal any action relating to suspension, termination, or demotion by filing within 30 days from such aggrieved action a written request with the Chairman of the Appeals Board, with a copy to the Mayor and Council and City Administrator.
3. The Appeals Board shall investigate and hear all appeals of aggrieved employees.
4. Within 15 days following any such final hearing, the Appeals Board shall submit its findings in writing to the City Council. The findings shall be advisory.

Section 13: Subsection (D)(7) of Section VIII of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

7. If at any time the City Administrator is concerned that an employee is unable to fulfill the minimum requirements of his or her position for medical reasons, the City Administrator may require the employee to undergo a medical examination at the City's expense by a physician of the City's choice.

Section 14: Subsection (I)(1) of Section VIII of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

1. Inclement weather and other natural or man-made circumstances may cause the City Administrator to close certain City offices for part or all of a day. Employees who are sent home or told not to report for work will be compensated and will not be charged vacation leave for the time off. **EXCEPTION:** Employees who are already on leave status or have previously applied for leave during a period subsequently declared to be Administrative Leave shall remain in their original leave status.

When City offices are closed prior to the start of a workday, the City Administrator or his designee will generally notify Department Managers prior to 7:00 a.m. It will be the responsibility of each Department Manager to notify his staff to remain at home and/or to assign minimal staff to report for work. In cases of inclement weather, if employees do not receive such notification prior to 7:00 a.m., they should assume that the City offices will be

open and report for work. Non exempt employees reporting for work after the start of their regular workday will be charged with vacation leave or compensatory time to cover the intervening period.

Section 15: Subsection (H) of Section XI of the City of Manitou Springs, Colorado Personnel Manual, adopted by the City Council of the City of Manitou Springs, Colorado on July 10, 2007, in Ordinance No. 0407 is hereby amended to read as follows:

H. EXIT INTERVIEW

1. When an employee's employment with the City is terminated, the separating employee will be entitled to an exist interview before the Appointing Authority. The Department Manager will provide the employee with an Exit Interview Form on his/her last day of employment. The employee will notate on the form whether he or she wishes to have an exit interview or not.

2. The Department Manager will forward the Exit Interview Form to the City Clerk. 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 will place the signed Exit Interview Form in the employee's personnel file.

Section 16: 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 17: 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 18: This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 19: This ordinance shall take effect five (5) days after final approval and adoption on second reading.

Passed on First Reading and Ordered Published this 21st day of June, 2011.

/s/ Donna Kast
City Clerk

A Public Hearing on will be held at the July 5, 2011 City Council meeting. The Council Meeting will be held at 7:00 P.M. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published: June 23, 2011.

Pikes Peak Bulletin

Passed on Second Reading and Ordered Published this 5th day of July 2011.

Approved: /s/ Marc A. Snyder
Mayor and City Council

Attest: /s/ Donna Kast
City Clerk

Approved for Council Action: /s/ Jack Benson
City Administrator

Approved as to form: /s/ Jeff Parker
City Attorney

Published: July 7, 2011

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