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4 CITY OF CUYAHOGA FALLS, OHIO

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6 ORDINANCE NO. 100 - 2011

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8 AN ORDINANCE AMENDING SECTIONS 151.01 AND
9 151.05 OF TITLE FIVE, PART ONE OF THE CODIFIED
10 ORDINANCES, RELATING TO SICK LEAVE AND
11 VACATION FOR ELIGIBLE EMPLOYEES, AND
12 DECLARING AN EMERGENCY.

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14 BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County of Summit,
15 and State of Ohio, that:

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17 Section 1. Sections 151.01 and 151.05 of the Codified Ordinances of the City of
18 Cuyahoga Falls are hereby amended to read in full as follows (new text underlined;
19 deleted text in ~~strikethrough~~):

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21 151.01 SICK LEAVE.

22 (a) Effective May 1, 1986, all full-time, permanent employees, and officials,
23 including Fire and Police Department employees, supervisory and non-supervisory,
24 classified, unclassified, elected and appointed employees and officials of the City,
25 working forty hours per week, and not belonging to or included in any labor union
26 bargaining agreement, shall be entitled, except as hereinafter provided, for each
27 completed one month of service, to sick leave of one and one-quarter work days (10
28 hours) with pay.

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30 (b) Sick Leave Uses. With the approval of the appropriate department head of
31 the City, sick leave may be used by an employee for absence due to any of the following
32 reasons:

33 (1) Illness, injury or pregnancy-related condition of the employee.

34 (2) Exposure of an employee to a contagious disease which could be
35 communicated to and jeopardize the health of other employees.

36 (3) Examination of the employee, for health related purposes including
37 medical, psychological, dental or optical examination, by an appropriate licensed
38 practitioner.

39 (4) Illness, injury or pregnancy-related condition of a member of the
40 employee's immediate family where the employee's presence is reasonably necessary for
41 the health and welfare of the employee or affected family member.

42 (5) Examination for health related purposes including medical,
43 psychological, dental or optical examination, for a member of the employee's immediate
44 family where the employee's presence is reasonably necessary.

45 (6) Death in the employee's family.

46 (7) Other specific health or medical related conditions seriously affecting the
47 employee, or a member of his immediate family where the employee's presence is
48 reasonably necessary.

49 (8) "Immediate family" means an employee's spouse, children and the
50 employees parents.

51 Sick leave shall not be used for work related injuries.

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53 (c) Sick leave, by reason of death in the employee's family shall be granted as
54 follows:
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Wife, husband, or child	Maximum of two weeks
Mother, father, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister, brother, or anyone in place of parent	Maximum of 5 days
Sister-in-law, brother-in-law, aunt, uncle, grandparents, grandchild	Maximum of 3 days
All other relatives	Maximum of 1 days

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(d) An employee who has been laid off, suspended, is on a leave of absence, or is on non-paid status of any kind with the City shall not accumulate or receive sick leave credit for such period of time. An employee shall not earn sick leave while using sick leave to the extent a single period of sick leave use exceeds twelve (12) consecutive weeks. Sick leave taken shall be deducted on an hour for hour basis from an employee's accumulated sick leave. Sick leave shall not accrue for overtime or straight time in excess of forty hours per week.

(e) An employee may use sick leave upon the notification of his supervisor or other designated individual in accordance with the policies established for call-in in his department. When making notification, the employee shall state the reason for the request for sick leave. If such notification is not made, the absence may be charged, upon the recommendation of the department or division head, to leave without pay or a disciplinary suspension.

(f) Upon retirement, or termination in good standing from active service with the City and with ten (10) or more years of service with the City, all eligible employees except the Police Chief and Police Captains shall be paid one hundred percent (100%) of the value of their accrued sick leave credit up to a maximum of nine hundred sixty (960) hours. Upon retirement, or termination in good standing from active service with the City and with ten (10) or more years of service with the City, the Police Chief and Police Captains shall be paid one hundred percent (100%) of the value of their accrued sick leave credit up to a maximum of one thousand five hundred (1500) hours. The payment shall be based on the employee's rate of pay at the time of the payment. Such payment shall be made only once to an employee.

An employee who:

(1) Has ten years or more service with the City, and

(2) Has a sick leave balance of at least nine hundred sixty (960) hours (one thousand five hundred (1500) hours for the Police Chief and Police Captains).

(3) Is within the last three years of his employment with the City and

(4) Either:

A. Has qualified for a service pension under the rules from the Ohio Public Employees' Retirement System or Ohio Police and Fire Pension System by reason of age and length of service, or

B. Is within three years of qualifying for a service pension under the rules of said retirement systems by reason of age and length of service, may elect to cash out accrued sick time in three equal and annual payments. All eligible employees except the Chief of Police and Police Captains may cash out accrued sick time up to three hundred and twenty (320) hours per payment. The Police Chief and Police Captains may cash out accrued sick time up to five hundred (500) hours per payment. These payments shall be based on the employee's rate of pay at the time of each payment. The eligible employee must declare his intent to retire within three years of the declaration and notify his Department Director and the Director of Finance of his

100 election to cash out sick leave as provided herein at least thirty days prior to the first
101 distribution of funds. The third and final distribution of funds shall be made only after
102 the employee has retired. All hours paid under this provision shall be deducted from
103 the payment of accrued sick leave as provided under this agreement. Any remaining
104 sick leave credit may be used until the employee's retirement date at which time all
105 remaining sick leave balance shall be deemed exhausted and no further sick leave
106 payment will be allowed. Funds paid to the employee on an annual cash-out basis may
107 be rolled over into an employee's deferred compensation account as allowed by plan
108 rule or paid in cash as requested by the employee.

109 For the purpose of funding this sick leave cash-out payment, the Finance
110 Director shall establish a fund and annually deposit a sum sufficient to cover the
111 anticipated payout(s) under this provision. Money set aside in this fund shall only be
112 used for the purpose of paying the benefit set forth in this section and for no other
113 purpose.

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115 (g) Sick leave credit transferred into the City from the State or any other
116 political subdivision shall not be converted into cash benefits. For the purposes thereof,
117 sick leave credit earned in Cuyahoga Falls employment shall be the first charged for
118 authorized illness.

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120 (h) In the event of death of an employee, unused sick leave in the maximum
121 amount defined in subsection (f) hereof, shall become payable in a lump sum in the
122 employee's name and given to his spouse or his estate if no spouse survives. Only sick
123 leave credit earned by employment with the City may be converted into cash benefits
124 upon retirement, disability retirement or death.

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126 (i) The responsible department or division head may require that an employee
127 requesting sick leave furnish or submit to any or all of the following before any request
128 for sick leave shall be approved:

129 (1) A detailed statement specifying the exact nature of the illness or injury;
130 the name, address and phone number of the treating physician; and the anticipated
131 number of days required to treat such illness or injury.

132 (2) A medical report from the employee's physician containing the
133 information specified in subsection (i)(1) hereof.

134 (3) That the employee submits to a physical/psychological exam by a
135 physician/psychiatrist/psychologist of the City's choice. The cost of any such required
136 examination shall be borne by the City.

137 (4) Such exam shall relate only to the nature of the employee's illness. Failure to
138 furnish, refusal to submit to or falsification of any of the above shall be grounds for
139 disciplinary action, including dismissal.

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141 (j) Each department or division head shall maintain accurate attendance
142 records of each employee under his or her supervision and shall report bi-weekly to the
143 Finance Department any time taken off by an employee. For an employee to return to
144 work with pay or receive sick leave benefits after being absent on three consecutive
145 scheduled work days, he shall submit to the department head a satisfactory written
146 statement attesting to the nature of his illness or disability and shall obtain the
147 certificate of an attending physician all attesting to the propriety and reasonableness of
148 the necessity to utilize sick leave pay benefits. Failure to provide or falsification of the
149 above shall be grounds for denial of sick pay and/or disciplinary action, including
150 dismissal. The Finance Director shall provide a written summary of each City
151 employee's total sick leave absences and cash payments to Council, on an annual basis,
152 by no later than January 30th of the next calendar year.

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154 (k) In special and meritorious cases of illness, or job related injury, sick leave
155 may be extended or adjusted by order of Council. A request for an extension,
156 accompanied by a certification of a licensed physician shall be submitted by such
157 department or division head to Council at its next scheduled meeting with a written
158 opinion by such department or division head as to the merit of such request.
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160 (1) Nothing in this section shall be construed to interfere with existing unused
161 sick leave credit in any department of the City where attendance records are maintained
162 and credit has been given employees for unused sick leave.
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164 (m) A regular full-time non-bargaining employee with five or more years of
165 service with a sick leave balance of at least 320 hours at the beginning of the calendar
166 year for which this sick leave incentive program applies shall have the following options
167 with regard to accumulated sick leave.

168 (1) Allow the unused sick leave balance earned to accrue to the
169 employee's sick leave balance.

170 (2) Receive a cash benefit as follows:

171 A. An employee who did not use sick leave for the year may convert
172 forty (40) hours of sick leave at a rate of 100% of the employee's hourly base rate of pay
173 for the year in which the sick leave incentive was earned.

174 B. An employee who used more than zero but not more than eight
175 hours of sick leave may convert forty (40) hours of sick leave at a rate of 75% of the
176 employee's hourly base rate of pay for the year in which the sick leave incentive was
177 earned.

178 C. An employee who used more than eight but not more than sixteen
179 hours of sick leave may convert forty (40) hours of sick leave at a rate of 60% of the
180 employee's hourly base rate of pay for the year in which the sick leave incentive was
181 earned.

182 D. An employee who used more than sixteen but not more than
183 twenty- four hours of sick leave may convert forty (40) hours of sick leave at a rate of
184 50% of the employee's hourly base rate of pay for the year in which the sick leave
185 incentive was earned.

186 E. An employee who used more than twenty-four but not more than
187 thirty-two hours of sick leave may convert forty (40) hours of sick leave at a rate of 25%
188 of the employee's hourly base rate of pay for the year in which the sick leave incentive
189 was earned.

190 Employees meeting the above criteria must notify the Finance Department
191 by January 15 of the year following the year for which sick leave incentive payment is
192 sought and the cash disbursement shall be made on or about February 15.
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195 151.05 VACATIONS.

196 All full-time officers and employees of the City and the Cuyahoga Falls Municipal
197 Court who are employed on a salary or hourly basis, ~~an hourly basis or per diem basis,~~
198 and who are not covered by a collective bargaining agreement, except elected officials,
199 are hereby granted vacation benefits as set forth herein.
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201 (a) Vacation with pay:

During the first calendar year of employment	No vacation
During the second calendar year of employment	1 day's vacation (8 hours) for each full month of employment of the previous calendar year up to a

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	maximum of two calendar weeks (80 hours)
From 1 complete year through 5 complete years of service (City FLSA non-exempt employees and Court C1-C9 employees)	2 weeks of vacation (80 hours)
From 5 complete years through 8 complete years of complete service (City FLSA non-exempt employees and Court C1-C9 employees)	3 weeks of vacation (120 hours)
From 1 complete year through 8 years of complete service (City FLSA exempt employees and Court C10-C14 employees)	3 weeks of vacation (120 hours)
From 8 complete years of service through 13 complete years of service	4 weeks of vacation (160 hours)
From 13 complete years of service through 20 complete years of service	5 weeks of vacation (200 hours)
After 20 complete years of service	6 weeks of vacation (240 hours)

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Such employees shall receive the additional earned week of vacation on their anniversary date, meaning the initial date hired, when such employee has completed the transition year.

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(b) (1) An employee may carry over into the following year with the approval of his department or division head and certification to the Finance Department, one-half of his previous year's vacation, however, an employee may carry this vacation into the following year only.

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(2) Employees who have completed five years of service and who qualify for three weeks vacation pursuant to subsection (a) hereof shall be permitted to bank a maximum of one week of unused vacation time per year. The employees who qualify for four or five weeks vacation pursuant to subsection (a) hereof shall be permitted to bank a maximum of two weeks of unused vacation time per year, and employees who qualify for six weeks vacation pursuant to subsection (a) hereof shall be permitted to bank a maximum of three weeks of unused vacation time per year. Any vacation time banked pursuant to this section shall be banked at the rate at which it was earned.

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(3) Employees who have banked vacation time pursuant to this section shall, upon retirement or termination of employment, be paid a sum equal to the amount of vacation hours banked times the hourly rate of pay of such employee at the time(s) the vacation time was earned.

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(4) Prior to the end of each fiscal year employees must notify the Finance Department and designate whether their unused vacation time shall be banked or carried over pursuant to terms and conditions set forth in this section. Employees must choose either to bank or carry over their unused vacation time and they shall not be permitted to do both in any given year.

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(5) An employee who qualifies for three (3) weeks of vacation shall be permitted to sell a maximum of one (1) week of vacation; employees qualifying for four (4) or five (5) weeks of vacation shall be permitted to sell a maximum of two (2) weeks of vacation, and employees who qualify for six (6) weeks of vacation shall be permitted to sell a maximum of three (3) weeks of vacation. The following terms and conditions apply to the selling of vacations.

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A. Vacation sold in one (1) week increments may be sold at any time throughout the year.

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237 B. Vacation sold in whole hour increments less than or greater than
238 a weekly increment may be sold in the second pay period of June or the second pay
239 period of November, provided that in 2003, such vacation may be sold in the second
240 pay period of July and the second pay period of November.

241 C. Vacation must be sold in the year in which it is credited to the
242 employee; and

243 D. An employee may both bank and sell vacation, as provided
244 herein, in the same year.

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246 (c) An employee who terminated his employment for any reason other than
247 being discharged and is rehired shall regain all of his prior service for determining
248 vacation due him on the January 1st next following one full year of new continuous
249 service. An employee who has been discharged for cause and is rehired shall receive
250 none of his prior service credit for determining vacation time. An employee who is being
251 hired on a full time permanent basis after having worked as cooperative employee,
252 temporary employee or part-time employee shall receive no credit toward vacation time
253 for his prior part-time or temporary service. An employee who leaves employment for a
254 reason other than being discharged for cause after January 1st following the calendar
255 year of his employment and has been paid for at least one day in the year he leaves,
256 shall receive a lump sum payment for unused accrued vacation time due such
257 employee. For the purpose of determining the amount of unused accrued vacation due,
258 the provisions of this section shall prevail. An employee who terminates his employment
259 within the calendar year his employment began will receive no vacation pay upon
260 termination.

261 An employee who is on sick leave, military leave, Worker's Compensation or injury
262 compensation shall receive credit for such time toward vacation as if he were working
263 his regular hours, except that an employee shall not earn vacation leave credit while
264 using sick leave to the extent a single period of sick leave use exceeds twelve (12)
265 consecutive weeks. An employee who is on layoff, leave of absence without pay or on
266 suspension shall accrue no benefits toward vacation for the time he is not working. A
267 temporary, part-time, cooperative or seasonal employee shall receive no vacation.

268 Any new employee with previous service as State, City, County or other municipal
269 employee can transfer years of service toward vacation with letter from former employer
270 to be added after ninety days but not to be taken until January 1, of year following
271 starting date here.

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273 (d) All full-time employees who are serving at the pleasure of an elected or
274 appointed official shall receive leave with pay upon the aforementioned schedule except
275 that during the first calendar year of employment they shall be awarded up to one week
276 (40 hours) of vacation for each six-month period of service. Such time may not be
277 carried over, banked or cashed in.

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279 (e) In the event a full time salaried or hourly employee of the City resigns,
280 retires or dies, such employee or his estate shall be credited with such unused vacation
281 time as his service in the year prior and of the current year shall entitle him to receive,
282 and such employee or his estate shall be paid for any unused vacation as of his last
283 working day.

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285 (f) Employees who have been on Worker's Compensation for an entire calendar
286 year as of December 31 of any year, beginning with December 31, 1986, shall be paid
287 for that portion of their unused vacation in excess of the maximum carry-over allowed
288 to such employees.

289 ~~In the event a permanent salaried or hourly employee retires or dies, such employee~~
290 ~~or his estate shall be credited with such unused vacation time as his service in the year~~

291 ~~prior and of the current year shall entitle him to receive, and such employee or his~~
292 ~~estate shall be paid for any unused vacation as of his last working day.~~

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294 Section 2. The amendments to Sections 151.01 and 151.05 of the Codified
295 Ordinances made by this Ordinance are effective January 1, 2012 and are not
296 retrospective in effect.

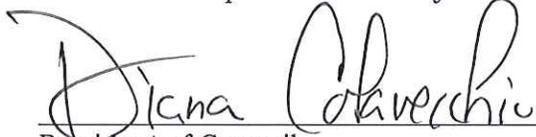
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298 Section 3. Existing Sections 151.01 and 151.05 of the Codified Ordinances, as
299 amended by Ord. No. 99-2009, passed November 2, 2009, are hereby repealed.

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301 Section 4. Any ordinances or resolutions or portions of ordinances and resolutions
302 inconsistent herewith are hereby repealed, but any ordinances and resolutions not
303 inconsistent herewith and which have not previously been repealed are hereby ratified
304 and confirmed.

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306 Section 5. It is found and determined that all formal actions of this Council
307 concerning and relating to the passage of this ordinance were taken in an open meeting
308 of this Council and that all deliberations of this Council and of any committees that
309 resulted in those formal actions were in meetings open to the public, in compliance with
310 all legal requirements including Chapter 107 of the Codified Ordinances.

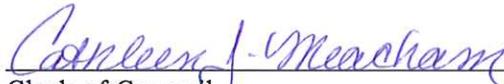
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312 Section 6. This ordinance is hereby declared to be an emergency measure necessary
313 for the preservation of the public peace, health, safety, convenience and welfare of the
314 City of Cuyahoga Falls and the inhabitants thereof, and provided it receives the
315 affirmative vote of two-thirds of the members elected or appointed to Council, it shall
316 take effect and be in force immediately upon its passage and approval by the Mayor;
317 otherwise it shall take effect and be in force at the earliest period allowed by law.

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321 Passed: 11-28-11



President of Council

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Clerk of Council

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329 Approved 12/1/11



Mayor

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332 11/21/11
333 O:\2011lords\amend-151.01 & 151.05 Sub 11.21.11 v.2