

ORDINANCE NO. 359

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, ESTABLISHING DEDUCTIONS FROM PAY FOR SALARIED, EXEMPT EMPLOYEES, AND AUTHORIZING THE CITY MANAGER TO ESTABLISH PERSONAL LEAVE BANKS FOR SALARIED, EXEMPT EMPLOYEES.

WHEREAS, the City Council sets the pay, benefits, and classification structure for the City; and

WHEREAS, the Washington State Department of Labor and Industries adopted WAC 296-128-532 and WAC 296-128-533 defining when deductions from salary are allowed; and

WHEREAS, WAC 296-128-533 sets forth the criteria for establishing partial-day deductions from the salary or leave banks of exempt public employees in accordance with the principles of public accountability, which the City Council desires to implement;

WHEREAS, the City has adopted a pay plan, Ordinance No. 353, in accordance with the principles of public accountability;

WHEREAS, the City Council desires to establish a deduction for partial-day leaves of absence and to establish Personal Leave banks for salaried, exempt employees to recognize the commitment salaried, exempt employees make to work the hours necessary to get the City's work completed while remaining accountable to the public for employee pay and benefits and ensuring that there is no gift of public funds involved in the recognition of exempt employees' contributions.

WHEREAS, Ordinance No. 132 authorized the City Manager to adopt personnel policies;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Council hereby adopts Ordinance No. 359, providing deductions from pay for salaried, exempt employees in accordance with the principles of public accountability and as described in Attachment A.

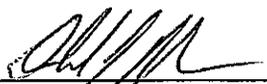
Section 2. The City Council hereby authorizes the City Manager to establish Personal Leave banks for salaried, exempt employees and establish administrative procedures for accruing and using Personal Leave.

Section 3. The effective date for deductions in pay for salaried, exempt employees established by Attachment A and the creation of Personal Leave

banks shall be May 1, 2004 and shall continue until December 31, 2006 unless extended by action of the City Council.

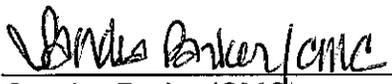
Section 4. On or before May 1, 2006, the City Manager shall submit a report to the City Council evaluating the effectiveness of the leave bank program for exempt employees, quantifying the ways in which public accountability has been improved, estimating costs for administration of the program and the savings accomplished as a direct result of its implementation. The report shall also summarize any adjustments made by the City Manager to the personal leave banks established when the program became effective May 1, 2004, describe impacts the program has had on recruitment or retention of exempt employees, if any, summarize exempt employee acceptance of the program as implemented, and identify any proposed changes in policy suggested in the event the program is reauthorized by the City Council.

ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 12th DAY OF APRIL 2004.



Don Brocha, Mayor

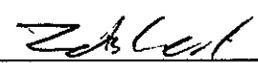
ATTEST/AUTHENTICATED:

By: 

Sandra Parker/CMC
City Clerk

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

By: 

PASSED BY THE CITY COUNCIL: 04-12-2004
PUBLISHED: 4-19-2004
EFFECTIVE DATE: 05-01-04
ORDINANCE NO. 359

ATTACHMENT A

Deductions from Pay for Salaried, Exempt Employees Effective Date: May 1, 2004

Deductions for salaried, exempt employees. This policy applies to any employee who is paid on a salary basis and who meets the definitions of executive, administrative, or professional under the Fair Labor Standards Act or Washington Minimum Wage Act, and is in accordance with the principles of public accountability that are a policy or practice of the City.

Definition

"Salary" is where an employee regularly receives for each pay period of one week or longer (but not to exceed one month) a predetermined monetary amount (the salary) consisting of all or part of his or her compensation, which amount will not be less than required to be paid pursuant to WAC 296-128-510 through 296-128-530.

A "bona fide leave bank" is a benefit provided to employees in the case of absence from work due to sickness or personal time off. It must be in writing and contained in contract or agreement, or in a written policy that is distributed to employees. This policy establishes a "bona fide leave bank" in accordance with the principles of public accountability.

Policy

The salary of exempt employees shall not be subject to deduction because of variations in the quantity or quality of the work performed, except as provided below. Under RCW 49.46.130 (2)(a), salaried employees may receive additional compensation or paid time off and still be considered exempt.

Allowed Salary Deductions

1. If the employee performs no work in a particular week, regardless of the circumstances, the City may deduct for the entire week.
2. An employee's pay will be reduced or the employee will be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because:
 - a. permission for its use has not been sought or has been sought and denied;
 - b. accrued leave has been exhausted; or
 - c. the employee chooses to use leave without pay.
3. When an employee is eligible for the federal Family and Medical Leave Act 29 U.S.C. Sec. 2611 et seq., deductions may be made for partial day absences due to leave taken according to that law and the applicable provisions in chapter 49.78 RCW.
4. In the first and final week of employment, an employee's salary may be prorated for the actual days worked.
5. Deductions are allowed for disciplinary absences that are imposed for violations of safety rules of major significance. This includes only those relating to the prevention of serious danger to City facilities, the public, or other employees, such as rules prohibiting smoking around hazardous or other flammable materials.

6. Deductions are allowed when authorized under RCW 49.48.010, 49.52.060, or WAC 296-126-025.
7. Deductions are allowed for absences where authorized by law due to a budget-required leave of absence
8. A public employee's pay shall be reduced or the public employee shall be placed on leave without pay for absences of less than one work day when accrued leave is not used by the public employee.

Improper deductions from salary

Deductions are not permitted for partial days of work, except as permitted by this policy or by WAC 296-128-533.

1. Deductions are not permitted for lack of work for any amount of time less than a full week, except as set forth in no. 7 above, which implements an exception for public employees set forth in WAC 296-128-533.
2. Deductions are not permitted when the employee participates in jury duty, attendance as a witness, or temporary military leave if the employee performs any work during that week. The employer may, however, offset any amounts received by an employee as jury or witness fees or military pay.

Allowed deductions from leave banks

1. Deductions may be made from compensatory time in any increment.
2. Deductions may be made from bona fide leave banks in partial or full day increments. However, partial day deductions may be made only on the express or implied request of the employee for time off from work. Leave bank deductions may not be made for less than one hour.
3. When leave banks are exhausted, deductions from salary may be made as permitted by this policy.