

ORDINANCE NO: 109 - 2017
INTRODUCED BY: Mayor Roche and All of Council

AN ORDINANCE AMENDING CHAPTER 159, "EMPLOYEES GENERALLY", OF THE CODIFIED ORDINANCES TO ADD NEW SECTION 159.23, "MILITARY LEAVE"; AND DECLARING AN EMERGENCY.

WHEREAS, this Council recognizes and commends those individuals that serve in the armed forces to protect the freedoms of the citizens of the United States of America and to defend the country in times of conflict; and

WHEREAS, the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") protects the rights of members of the military who are ordered to active duty or field training to seek or retain civilian employment and benefits free from discrimination because of military service; and

WHEREAS, the Codified Ordinances of the City of Richmond Heights do not currently address military service and leaves of absence for City employees and the Chief of Police has recommended that the Codified Ordinances be amended to include provisions regarding military leave that are consistent with State and federal law, which provide a more comprehensive regulatory framework for such leave; and

WHEREAS, this Council finds and concludes that amending Chapter 159, "Employees Generally", of the Codified Ordinances of the City of Richmond Heights to add new Section 159.23, "Military Leave," will promote the public health, safety and general welfare of the City and its residents and is in the best interest of the City.

NOW, THEREFORE, Be It Ordained by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1. Chapter 159, "Employees Generally", of the Codified Ordinances of the City of Richmond Heights is amended to add new Section 159.23, "Military Service/Leave", to read as follows:

"Section 159.23 MILITARY LEAVE

(a) An employee who is a member of the Ohio National Guard, the Ohio Air Guard, the Ohio Naval Militia, or other reserve components of the armed forces of the United States shall be entitled to leaves of absence from his or her respective duties for such time as he or she is in required military service on field training or active duty for up to a maximum of one hundred seventy-six (176) scheduled working hours per calendar year pursuant to Section 5923 of the Ohio Revised Code. Such leave shall be granted without loss of such pay or benefits as would normally be provided. This restriction does not apply to initial active duty training or

deployments to active duty at a time of military crisis or because of an executive order by the President of the United States.

(b) If a full-time employee remains in the uniformed service beyond any period entitling him or her to full pay provided by the Ohio Revised Code, which is currently twenty-two (22), eight (8)-hour work days or 176 hours in any one calendar year, the Director of Finance is then authorized to continue to compensate the employee the difference between his or her gross base military pay while the employee remains in military service.

(1) No such differential pay shall be issued in the event that an employee's military pay or compensation exceeds his or her base City pay.

(2) Before the employee commences military leave, he or she must provide the Director of Finance with accurate military pay information for the period he or she will be in such military service, whether on field training, weekend training or on active duty.

(c) Before an employee takes military leave, he or she must give advance notice to his or her supervisor in writing as soon as the employee is made aware of the military orders, unless such notice is precluded by military necessity or is otherwise impossible or impracticable.

(d) Military leave from scheduled duties shall not affect the employee's rights to vacation leave, sick leave, bonuses, seniority rights or other normal benefits of his or her employment that would have been attained if the employee had not taken military leave. An employee with group health coverage provided by the City shall be entitled to continue such coverage for up to twenty-four (24) months beginning with commencement of military leave pursuant to Subsection 159.23(b), subject to payment of the full cost of such group health coverage plus an administrative fee of two percent (2%), as permitted by federal law.

(e) If an employee goes on military service while within a bona fide probationary period of training and/or observation in his or her City employment position, the remaining probationary period shall apply following reemployment. As otherwise provided herein and under state and federal law, when an employee completes such probationary period, the employee's pay and seniority should reflect both the pre- and post-service time in the probationary period plus the time served in the military."

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

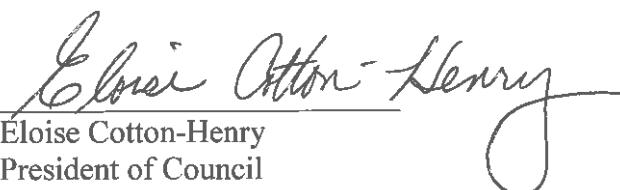
Section 3. This Ordinance is an emergency measure immediately necessary for the furtherance of the public health, safety and general welfare, and for the further reason that the foregoing amendment to the Codified Ordinances must become immediately effective to provide criteria for military leaves of absence; and, therefore, provided it receives the affirmative vote of at least five (5) members of Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor.

PASSED: 11/14/17


David H. Roche, Mayor

APPROVED: 11/14/17

ATTEST: Betsy Traben
Betsy Traben
Clerk of Council


Eloise Cotton-Henry
President of Council