

**INTRODUCED BY:**

Frank A. Mullens, Jr., Mayor

**ORDINANCE NO:**

2363

**REFERRED TO:**

**APPROVED ON:**

06/18/25

**AN ORDINANCE TO AMEND SECTIONS 167.30 AND 167.31 OF ARTICLE 167 OF  
THE CITY CODE OF THE CITY OF SOUTH CHARLESTON CONCERNING  
HOLIDAYS AND EMPLOYEE LEAVE**

**WHEREAS**, the West Virginia Legislature amended W.Va. Code §8-15-10a in 2024 to add provisions concerning time off and payment for members of municipal fire departments related to legal holidays as specified in W.Va. Code § 2-2-1(a); and

**WHEREAS**, the City of South Charleston implemented a system for fire department holiday pay and compensation time by adding more time for accrued vacation and a special category for holidays in 1976; and

**WHEREAS**, with the new, 2024 legislative mandate, the City needs to restore City Code Section 167.31 to pre-1976 status related to holidays and comply with current state law; and

**WHEREAS**, the South Charleston Fire Department ("SCFD") members previously were informed of the change in law and agreed that the City would need to make changes in the City's personnel policy as adopted in the City Code effective retroactively as of July 1, 2024; and

**WHEREAS**, in exchange for such agreement, the City agreed to increase the time of accumulated annual leave by SCFD members, as well as other employees, that may be carried forward from one calendar year to another; and

**WHEREAS**, Section 167.31 of the South Charleston City Code should be amended to comply with state law, revert to the pre-1976 method regarding holiday leave accumulation calculations, increase allowable annual leave accumulation, and express leave in terms of hours rather than shifts for ease of administration; and

**WHEREAS**, because the West Virginia Legislature refers to holidays set forth in state code, the City's holidays set forth in City Code Section 167.30 should be adjusted to mirror the holidays set forth in W.Va. Code § 2-2-1(a); and

**WHEREAS**, in connection with increasing the numbers of leave hours employees generally are allowed to carry forward from one fiscal year to another, the City is similarly willing to increase the number of days for earned annual or holiday leave the heirs or estate may receive upon an employee's death;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SOUTH CHARLESTON, WEST VIRGINIA, THAT ARTICLE 167, SECTIONS 167.30 and 167.31 BE AMENDED AS FOLLOWS:**

**By amending subsection (a) of City Code Section 167.30 to read as follows:**

- (a) Specified. Holidays to be observed with pay shall be as follows:
- |  |                               |
|--|-------------------------------|
| (1) New Year's Day   | First day of January;         |
| (2) Martin Luther King's Birthday  | Third Monday of January;      |
| (3) Presidents' Day  | Third Monday of February;     |
| (4) Memorial Day   | Last Monday in May;           |
| (5) West Virginia Day  | Twentieth day of June;        |
| (6) Independence Day   | Fourth day of July;           |
| (7) Labor Day  | First Monday of September;    |
| (8) Columbus Day   | Second Monday of October;     |
| (9) Veterans' Day  | Eleventh day of November;     |
| (10) Thanksgiving Day  | Fourth Thursday of November;  |
| (11) Lincoln's Day   | Day after Thanksgiving Day;   |
| (12) Christmas Day   | Twenty-fifth day of December; |
| (13) Any day on which a general, primary, or special election is held throughout the State or City; and            |                               |
| (14) Any other days the President or Governor, with the concurrence of the Mayor, may proclaim as a legal holiday. |                               |

**By amending subdivision (2), subsection (d) of City Code Section 167.30 to read as follows:**

- (2) Pay if scheduled off on holiday. A police officer who is not scheduled to work, and who does not work, on a holiday shall receive compensatory time off equal to his or her shift, with pay, to be scheduled in the discretion of the Police Chief. A member of the fire department who is not scheduled to work and who does not work on a holiday shall be allowed time off equal to his or her shift even if the shift spans two calendar days, at such time as may be approved by the Fire Chief or, in the alternative, shall be paid at a rate not less than one and one-half times his or her regular rate of pay, equal to his or her shift, even if the shift spans two calendar days.

**By amending subsection (a) of City Code Section 167.31 to read as follows:**

- (a) Generally. Annual leave shall be computed as follows for full-time employees; except, that Fire Department personnel shall receive annual leave as provided in subsection (b) hereof:

<u>Years of Service</u>	<u>Hours Earned (per 12 months of continuous service)</u>
0 to 10	80
10 to 15	120
Over 15	160

The employee is entitled to 40 hours of paid annual leave after the first six months of continuous service.

Permission for use of annual leave shall be requested from the department head as far in advance as possible. Annual leave should be scheduled at least two weeks in advance.



(1) No more than 360 hours of accumulated annual leave and holiday leave may be carried forward from one fiscal year to another. If an employee has more than 360 hours of accumulated leave as of June 30, that employee shall lose those hours of annual leave which are in addition to the 360 hours which the employee may carry over. Exception: Any employee who is off on Workers' Compensation leave or sick leave during the month of June, and who would otherwise lose annual leave because the employee is unable to utilize that leave prior to July 1 of that year, shall be granted an additional four months from his or her return to work date to utilize any accumulated annual leave, which is in addition to the 360 hours which he may otherwise carry over.

(2) Accumulated annual leave and holiday leave may be granted at any time as long as it does not interfere with the efficient operation of the City service, and except as provided in subsection (a)(3) hereof.

(3) Paid annual leave shall not be granted during the initial six months of continuous employment.

(4) Annual leave shall not be granted to emergency, per diem, and part-time employees.

(5) City-observed holidays that fall within an employee's scheduled vacation period shall not be charged against the employee's annual leave.

(6) An employee who has resigned, been laid off, or dismissed shall be paid in a lump sum for all annual leave, and holiday leave that has accrued to the employee's credit as of the last working day with the City, not to exceed 160 hours.

(7) An employee who has retired from City employment shall be paid in a lump sum for all annual leave and holiday leave that has accrued to the employee's credit as of the last working day with the City, not to exceed 360 hours.

(8) The minimum charge against annual leave or holiday leave shall be four hours, and additional leave shall be charged in multiples thereof. Absences of less than four hours shall be recorded by the supervisor, accumulated and charged in multiples of a half-day.

(9) Annual leave or holiday leave may be granted to an employee because of illness if all earned sick leave has been exhausted.

(10) In the event of the death of an employee who has not used all his or her earned annual leave or holiday leave, payment for the unused portion thereof not to exceed 360 hours shall be made in such a manner as shall cause it to accrue to his heirs or estate.

**By amending subsection (b) of City Code Section 167.31 to read as follows:**

(b) Fire Department Personnel. Annual leave for members of the fire department shall be computed by hours to include vacation leave, holidays, declared and otherwise designated, including a personal leave day, floating holiday, and election holidays. The schedule shall be as follows, with the stated number of vacation hours, based upon years of service, being earned each twelve months:

<u>Years of Service</u>	<u>Vacation Hours Earned</u> <u>(per 12 months continuous service)</u>
0 to 10	120 hours
10-15	168 hours
Over 15	216 hours

The employee shall be entitled to 60 hours of paid annual vacation leave after the first six months of continuous service, but shall be considered to have earned no leave prior to accumulating six months of continuous service.

(1) No more than 360 hours of accumulated annual leave may be carried forward from one calendar year to another. If an employee is terminated for any reason, the employee cannot be paid for more than 240 hours of accumulated annual leave.

(2) An employee who has resigned, been laid off, or dismissed shall be paid in a lump sum for all annual leave, not to exceed 240 hours, which has accrued to the employee's credit as of the last full working day with the City.

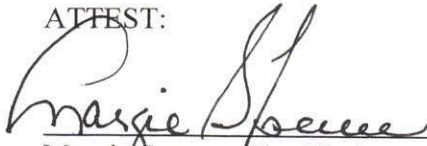
(3) The minimum charge against annual leave shall be in 12-hour increments.


(4) In the event of death of an employee who has not used all of his or her earned annual leave, payment for the unused portion thereof, not to exceed 360 hours, shall be made to the personal representative of the employee's estate.

(5) An employee who retires, either due to permanent disability or due to service and age eligibility, shall be entitled to be paid accumulated annual leave not to exceed 360 hours.

This ordinance shall take effect retroactively on July 1, 2024.

ATTEST:

  
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Margie Spence, City Clerk

  
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Frank A. Mullens, Jr., Mayor

This ordinance was prepared by Moore & Biser PLLC, City Attorney.