



WORK SESSION OF THE CITY COUNCIL

448 E. 1<sup>st</sup> Street, Room 190

Salida, Colorado 81201

Monday, November 18, 2019 – 6:00pm

**AGENDA**

1. Presentation by CC4CA (Colorado Communities for Climate Action) – Jacob Smith
2. Personnel Manual Update – City Administrator
3. 2020 Open Items Budget Discussion – Finance Director

*Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting the Deputy City Clerk at 448 E. 1<sup>st</sup> Street, Ste. 112, Salida, CO 81201, Ph. 719-530-2630 at least 48 hours in advance.*



# Presentation to the Salida City Council

Jacob Smith, Executive Director  
November 18, 2019


A coalition of local governments advocating for effective climate action primarily at the state level.

- State Legislature
  - Governor's office
  - State Agencies/State Rulemaking
  - Colorado Congressional Offices
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- A decorative graphic consisting of several parallel white lines of varying lengths, slanted upwards from left to right, located in the bottom right corner of the slide.


# CC4CA Members

- Aspen
- Avon
- Basalt
- Boulder
- Boulder County
- Breckenridge
- Carbondale
- Clear Creek Cnty
- Crested Butte
- Dillon
- Eagle County
- Erie
- Fort Collins
- Fraser
- Frisco
- Golden
- Lafayette
- Longmont
- Louisville
- Mountain Village
- Nederland
- Northglenn
- Pitkin County
- Ridgway
- San Miguel County
- Summit County
- Telluride
- Westminster
- Vail


# Impacts to Local Communities

- Less water
  - Less snow
  - More extreme flooding and other extreme weather events
  - Infrastructure damage
  - Growing health risks
  - More wildfires
  - Threats to key Colorado industries (e.g., winter rec, ag)
- 
- A decorative graphic consisting of several parallel white lines of varying lengths, slanted diagonally from the bottom right towards the top right, located in the lower right quadrant of the slide.

# 2019-2020 Policy Statement

- Carbon pollution
  - GHG inventories
  - Barriers to local programs
  - Electric co-ops and renewables
  - Energy efficiency
  - Vehicle emissions and EVs
  - Drilling emissions
  - Solid waste
- 

# Recent Highlights

- New methane emissions in progress
  - Secured passage of all 13 priority climate bills
  - Led on the GHG inventory bill
  - Secured adoption of LEV standards & proposed ZEV standards
  - 40 CC4CA reps testified (legislative & rulemaking)
  - Member trainings
- 



Colorado Communities  
*for Climate Action*

Jacob Smith, Executive Director  
[jsmith@cc4ca.org](mailto:jsmith@cc4ca.org)





## MEMORANDUM

DATE: November 18, 2019  
FROM: Drew Nelson, City Administrator  
TO: Mayor PT Wood & City Council  
SUBJECT: Personnel Manual Amendments

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### Background

As part of an ongoing effort to modernize and update the City's Personnel Manual, staff has commissioned a Benefits Committee to review the Manual over the past few months. In addition, the Employers Council (human resources and benefits specialists) have reviewed the existing Manual and are suggesting changes to bring it into modern legal compliance with employment law. Finally, changes have been recommended by the City's auditors, McMahan and Associates, for how vacation accrual and carryover occur to ensure that our policies and actual actions match up.

It is anticipated that this will be the first of a series of updates to both the Manual and other similar policies as we move into 2020. This, combined with a comprehensive salary analysis, will provide the organization with a competitive employee retention and recruitment environment going forward.

### Analysis

Attached to this memo is a redline version of the existing Personnel Manual with a significant number of changes. The main highlights (in no particular order) are:

- Increased vacation carryover for every employee at the beginning of 2020, equal to the amount of vacation hours an employee can accrue each year. For example, if an employee can accrue 80 hours, those employees can carry over 80 hours into 2020 if they haven't used any, making total vacation hours accrued and available up to 160 hours in 2020. This is in response to the concerns of the auditors as expressed in their last two management letters.
- In exchange for the larger carryover, employees will each receive half of their annual accrued vacation hours on January 1 and the remaining half on July 1. Currently, the entire year's worth of vacation is deposited in employees' accounts on January 1, giving the City an outsized vacation payout liability early every year.
- The redline now includes language that was inadvertently omitted in 2016 for emergency callouts for overtime. This draft would make overtime pay available to all non-public-safety non-exempt employees who are called out for emergencies, not just Public Works.
- Updated in its entirety the Family Medical Leave Act (FMLA) provisions to reflect contemporary legal requirements that have been instituted since the Act's adoption.
- Language was added to allow for Special Full-Time (people who work between 30 and 40 hours per week – we only have 2) eligible for holiday pay if they are normally scheduled to work on that holiday, and to clarify Premium Holiday Pay (basically double time and a half).

- Simplified the discipline language and removed the “list” of offenses, as recommended by Employers Council, to provide more flexibility in handling each employee’s situation as determined by the circumstances.
- Clarified and modernized the “Communications Systems” rules regarding email, voicemail, internet usage, etc. There will be more to add to this in the future with a social media policy based on the work being done by our communications consultants; however, that policy is currently in development.
- Updated the “Acknowledgement of Receipt” form for employees’ signatures.
- Removed a requirement that employees must wait for 6 months following their start date to use vacation time.
- Allowed for payouts (rather than just use) of vacation time for employees that switch from full time to something less.
- Please note: There are quite a few formatting issues that we are still trying to clean up for the document.

#### Recommendation

Staff is anticipating to walk the City Council through some of the major highlights and impactful changes at the worksession on November 18. It is our hope to get direction on whether these changes meet the City Council’s expectations for workforce compensation and benefits.



## ***PERSONNEL MANUAL***

~~Adopted by the City Administrator to be Effective May 2012~~

~~With Revisions Adopted by City Council on May 20, 2014 to be  
Effective July 1, 2014~~

~~on December 16, 2014 to be  
Effective January 1, 2015~~

~~on July 21, 2015 effective immediately  
on March 2, 2016 effective immediately  
and on May 3, 2016 effective immediately~~

~~and on June 21, 2016 effective immediately~~<sup>1</sup> ~~2~~Adopted by the Salida City Council  
and effective immediately on November 19, 2019

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1 While document histories may be relevant from an administrative perspective, it is not necessary to include them with each revision; consider deleting all but the most recent revision date to minimize confusion.  
2 Amend the revision date; capture in the footer as well to identify the current edition.

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# INTRODUCTION

The purpose of this manual is to inform employees of the personnel policies of general applicability for the City of Salida (the City or Salida). This manual is not all-inclusive and does not purport to address all conceivable circumstances but addresses those topics likely to be of interest to employees in the course of day-to-day operations.

The policies in this manual are not intended to supersede applicable ordinances, statutes, or other laws; in case of any conflict between these policies and such ordinances, statutes or other laws, the latter shall prevail. The provisions of this manual apply to all employees of the City except as otherwise specified. Departments may have their own policies and procedures.

**The policies in this manual are not intended and shall not be construed to vest any employee of the City of Salida with any rights arising from any express or implied contract of employment, and employment with the City of Salida is at will, and can be terminated at any time without procedures, cause, or notice.**<sup>4 5</sup> The City reserves the right to change or rescind these policies and to determine the application of these policies to specific circumstances using its sole discretion. The City further reserves the right to alter or eliminate any benefits provided to its employees as referenced in the personnel policies. Any alteration, elimination, or revision may be made applicable to then-current as well as future employees.

Any matter not specifically covered by this manual may be administered by the City Administrator or his/her designee in a manner consistent with this manual.

## IMPORTANT NOTICE

AT \_\_\_\_\_THE CITY OF SALIDA, NEITHER THE EMPLOYEE NOR THE ORGANIZATION IS COMMITTED TO AN EMPLOYMENT RELATIONSHIP FOR A FIXED PERIOD OF TIME. EMPLOYMENT WITH \_\_\_\_\_THE CITY OF SALIDA IS AT-WILL. EITHER THE EMPLOYEE OR MANAGEMENT HAS THE RIGHT TO TERMINATE THE EMPLOYMENT RELATIONSHIP AT ANY TIME, FOR ANY REASON. THE LANGUAGE USED IN THIS HANDBOOK AND ANY VERBAL STATEMENTS BY MANAGEMENT ARE NOT INTENDED TO CONSTITUTE A CONTRACT OF EMPLOYMENT, EITHER EXPRESS OR IMPLIED, NOR IS THERE A GUARANTEE OF EMPLOYMENT FOR ANY SPECIFIC DURATION. NO REPRESENTATIVE OF \_\_\_\_\_THE CITY OF SALIDA, OTHER THAN THE ELECTED OFFICIAL OR AGENCY HEAD, HAS AUTHORITY TO ENTER INTO AN AGREEMENT OF EMPLOYMENT FOR ANY SPECIFIED PERIOD AND SUCH AGREEMENT MUST BE IN WRITING, SIGNED BY THE ELECTED OFFICIAL OR AGENCY HEAD AND THE EMPLOYEE.

THE CONTENTS OF THIS HANDBOOK ARE SUMMARY GUIDELINES FOR EMPLOYEES AND THEREFORE ARE NOT ALL INCLUSIVE. THIS HANDBOOK SUPERSEDES ALL PREVIOUSLY ISSUED EDITIONS. EXCEPT FOR THE AT-WILL NATURE OF THE EMPLOYMENT, THE ORGANIZATION RESERVES THE RIGHT TO SUSPEND, TERMINATE, INTERPRET, OR CHANGE ANY OR ALL OF THE GUIDELINES MENTIONED, ALONG WITH ANY OTHER PROCEDURES,

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<sup>4</sup> This notice must be in CAPITAL, **BOLD** letters to meet the courts' interpretation of what is required for a clear and conspicuous disclaimer; sample language has been added for your consideration.

<sup>5</sup> Whether a property right has been created is a matter of law; please consult with an Employers Council attorney if any clarification is needed regarding at-will / due process. Handbook reviewed with an at-will assumption.



PRACTICES, BENEFITS, OR OTHER PROGRAMS OF \_\_\_\_\_THE CITY OF SALIDA.  
THESE CHANGES MAY OCCUR AT ANY TIME, WITH OR WITHOUT NOTICE.



# EMPLOYMENT PRACTICES

## 1.1 ~~Equal Opportunity Employment~~<sup>6</sup>

~~The City of Salida is an Equal Opportunity Employer. It is the policy of the City to implement equal opportunity for all employees and candidates for employment without regard to age, gender, sexual orientation, race, color, religion, national origin, physical or mental disability, military status, genetic information, or other protected status. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, including fetuses, family medical history, receipt of and/or results of genetic testing, and participation in genetic clinical research. This policy shall relate to recruiting, hiring, training, advancement, work assignments, compensation, benefits, discipline, termination and all other terms and conditions of employment. In addition, the City is committed to providing and maintaining a work environment in which all employees are treated in a professional manner.~~

## 1.2 ~~Prohibited Harassment~~

### A. ~~Introduction:~~

~~It is the City of Salida's policy that all employees are entitled to work in an environment free of prohibited harassment as defined in Subsection B below. Prohibited harassment will not be tolerated. A prompt investigation of all claims and complaints of prohibited harassment will be undertaken, and effective and appropriate corrective action will be taken when determined to be warranted based on the investigation.~~

### B. ~~Definitions:~~

~~1. The following definitions shall be governed by applicable law, which may change from time to time.~~

- ~~a. "Age harassment" means harassment because an individual is 40 years of age or older.~~
- ~~b. "Disability harassment" means harassment because of an individual's physical or mental impairment that substantially limits one or more of the individual's major life activities, because the individual has a record of such an impairment, or because the individual is regarded as having such an impairment. "Disability" does not include current illegal use of drugs or impairment on the job by alcohol.~~
- ~~c. "Gender harassment" means harassment because of an individual's male or female gender.~~

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<sup>6</sup> Recommend you use the Employers Council verbiage as it is a bit more comprehensive and contains information that was missing, primary related to religious, disability, and pregnancy accommodation as well as sexual harassment.

- d. ~~"Marital or family status harassment" means harassment because an individual is a parent or non-parent, married, single, divorced, separated, or widowed.~~
- e. ~~"National origin harassment" means harassment because of an individual's ancestor's place of origin; or because an individual has the physical, cultural, or linguistic characteristics (such as language, accent, or manner of speaking) of a national origin group. Examples of "national origin groups" include but are not limited to Hispanic (i.e., persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin), Pacific Islander, Asian, Eastern, Middle Eastern, and Southern European origin.~~
- f. ~~"Prohibited harassment" means unwelcome conduct, including physical, verbal, or written conduct, that constitutes race/color harassment, national origin harassment, gender harassment, sexual harassment, sexual orientation harassment, religious harassment, disability harassment, age harassment, or marital/family status harassment, or that constitutes harassment based on other status under the equal employment opportunity laws, including but not limited to protection against retaliation for activities such as opposing a practice made unlawful by an equal employment opportunity law or participation in an investigation or other proceeding under the equal employment opportunity laws, or association with a protected individual.~~
- g. ~~Examples of "prohibited harassment" include but are not limited to: slurs, jokes, degrading comments, degrading pictures, degrading symbols, or other written, verbal, or physical conduct, based on race/color, national origin, gender, sex, religion, disability, age, or marital/family status, which has the purpose or effect of unreasonably interfering with an individual's work performance, creates an intimidating, hostile or offensive work environment, results in a tangible employment action, or is sufficiently severe or pervasive to alter the conditions of employment.~~
- h. ~~In addition, examples of prohibited conduct which constitutes "sexual harassment" include but are not limited to sexual advances, requests for sexual favors, or other physical, verbal, or written conduct of a sexual nature, when submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment, submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting that individual, or submission to or rejection of the conduct by an individual otherwise results in a tangible employment action.~~
- i. ~~"Race/color harassment" means harassment because of an individual's race or skin color. Examples of "race" include but are not limited to African American/Black, Caucasian/White, Asian/Pacific Islander, Hispanic, Latino, and Native American.~~

j. ~~"Religious harassment" means harassment because of an individual's traditional religious views or moral or ethical beliefs as to what is right and wrong, which beliefs are sincerely held with the strength of traditional religious views.~~

k. ~~"Sexual orientation harassment" means harassment because of an individual's sexual orientation.~~

~~C. Procedures.~~

~~1. Any employee who believes that he or she is being subjected to prohibited harassment should inform the person responsible for the conduct that such conduct is unwelcome and plainly request that it stop immediately.~~

~~2. The employee shall inform the City of prohibited harassment by notifying his/her immediate supervisor, department head, the City Administrator, or any member of the Governing Body of the City, as the employee chooses. The notification may be in the form chosen by the employee; the employee is encouraged to put the notification in writing.~~

~~3. No employee shall be subjected to reprisal or retaliation for making a notification of prohibited harassment. The employee should report immediately any incidents of reprisal, retaliation, or harassment which occurs as a result of making such a notification.~~

~~4. Upon notification under Paragraph 2 or 3 above, an investigation will be undertaken promptly. Disciplinary and/or corrective action will be taken by the appropriate supervisor when determined to be warranted pursuant to the investigation. The complaining employee will be notified of the results of the investigation.~~

~~5. To the extent possible, complaints and investigations will be handled in a confidential manner.~~

~~6. If it is determined that any employee engaged in conduct prohibited by this policy, the employee shall be subject to corrective and/or disciplinary action by the appropriate supervisor. That action may include verbal or written reprimand, suspension, or discharge as determined appropriate based on the findings of the investigation.~~

~~7. No employee shall make a false report of prohibited harassment.~~

### **Equal Employment Opportunity and Unlawful Harassment**

The City is dedicated to the principles of equal employment opportunity. We prohibit unlawful discrimination against applicants or employees on the basis of age 40 and over, race, sex, color, religion, national origin, disability, military status, genetic information, or any other status protected by applicable state or local law.

### **ADA and Religious**

The City will make reasonable accommodation for qualified individuals with known disabilities unless doing so would result in an undue hardship to the organization or cause a direct threat to

health or safety. The City will make reasonable accommodation for employees whose work requirements interfere with a religious belief, unless doing so poses undue hardship on the organization.

### **Pregnancy Accommodation**

Employees have the right to be free from discriminatory or unfair employment practices because of pregnancy, a health condition related to pregnancy, or the physical recovery from childbirth.

Employees who are otherwise qualified for a position may request a reasonable accommodation related to pregnancy, a health condition related to pregnancy or the physical recovery from childbirth. If an employee requests an accommodation, the City will engage in a timely, good faith, and interactive process with the employee to determine whether there is an effective, reasonable accommodation that will enable the employee to perform the essential functions of her position. A reasonable accommodation will be provided unless it imposes an undue hardship on the organization's business operations.

The City may require that an employee provide a note from her health care provider detailing the medical advisability of the reasonable accommodation. Employees who have questions about this policy or who wish to request a reasonable accommodation under this policy should contact ~~their Human Resources representative~~the City Administrator for insert name/contact details for appropriate representative or department.

The City will not deny employment opportunities or retaliate against an employee because of an employee's request for a reasonable accommodation related to pregnancy, a health condition related to pregnancy, or the physical recovery from childbirth. An employee will not be required to take leave or accept an accommodation that is unnecessary for the employee to perform the essential functions of the job.

### **EEO Harassment**

The City strives to maintain a work environment free of unlawful harassment. In doing so, the organization prohibits unlawful harassment because of age 40 and over, race, sex, color, religion, national origin, disability, military status, genetic information, or any other status protected by applicable state or local law.

Unlawful harassment includes verbal or physical conduct that has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. Actions based on an individual's age 40 and over, race, sex, color, religion, national origin, disability, military status, genetic information, or any other applicable status protected by state or local law will not be tolerated. Prohibited behavior may include but is not limited to the following:

- Written form such as cartoons, e-mails, posters, drawings, or photographs.
- Verbal conduct such as epithets, derogatory comments, slurs, or jokes.
- Physical conduct such as assault, or blocking an individual's movements.

This policy applies to all employees including managers, supervisors, co-workers, and non-employees such as customers, clients, vendors, consultants, etc.

### Sexual Harassment

Because sexual harassment raises issues that are to some extent unique in comparison to other types of harassment, the organization believes it warrants separate emphasis.

The City strongly opposes sexual harassment and inappropriate sexual conduct. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- Submission to such conduct is made explicitly or implicitly a term or condition of employment.
- Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment.
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

All employees are expected to conduct themselves in a professional and businesslike manner at all times. Conduct, which may violate this policy, includes, but is not limited to, sexually implicit or explicit communications whether in:

- Written form, such as cartoons, posters, calendars, notes, letters, e-mails.
- Verbal form, such as comments, jokes, foul or obscene language of a sexual nature, gossiping or questions about another's sex life, or repeated unwanted requests for dates.
- Physical gestures and other nonverbal behavior, such as unwelcome touching, grabbing, fondling, kissing, massaging, and brushing up against another's body.

Report the incident to ~~(Specify person by job title. Depending on the organization, the Employer should name no less than two persons in authority, preferably one male and one female, such as, Manager, Human Resources Director, Director, in-house counsel, etc.)~~the City Administrator or Administrative Coordinator who will investigate the matter and take corrective action. Your complaint will be kept as confidential as practicable. If you prefer not to go to either of these individuals with your complaint, you should report the incident to ~~(specify person by job title)~~the Mayor.

The City prohibits retaliation against an employee for filing a complaint under this policy or for assisting in a complaint investigation. If you perceive retaliation for making a complaint or your participation in the investigation, please follow the complaint procedure outlined above. The situation will be investigated.

If the City determines that an employee's behavior is in violation of this policy, disciplinary action will be taken, up to and including termination of employment.

### 1.3 Violence in the Workplace<sup>7</sup>

~~The City of Salida is committed to a safe workplace free of violence in any form. Such conduct will not be tolerated. Prohibited conduct includes but is not limited to oral or written statements, gestures, bullying, or expressions that communicate a direct or indirect threat of physical harm toward employees, citizens, or City property or facilities. Possession of a firearm or illegal weapon of any kind is prohibited at work, including a City vehicle or on a City-owned facility or parking lot except when such possession is a necessary requirement of an employee's job.~~

~~If an employee observes or experiences violent, threatening, harassing, intimidating, stalking or other disruptive behavior by anyone on City property, he or she should report it immediately to his or her supervisor, department head, or the City Administrator. Threats or assaults that require immediate attention by police should be reported first to police at 9-1-1. Complaints will receive prompt attention and, if the results of an investigation confirm an offense, appropriate action will be taken against the offender up to and including termination. No employee shall be subject to retaliation for making a report of workplace violence.~~

Employees must not engage in intimidation, threats or hostile behaviors, physical abuse, vandalism, arson, sabotage, use of weapons, carrying weapons on to City property, or any other act, which in management's opinion is inappropriate to the workplace. In addition, employees must refrain from making bizarre or offensive comments regarding violent events and/or behavior. Employees are expected to report any prohibited conduct to management. Employees should directly contact proper law enforcement authorities if they believe there is a serious threat to the safety and health of themselves or others.

The City prohibits the possession or use of unconcealed weapons and the use of concealed weapons on City property, regardless of whether or not the person is licensed to carry the weapon. This guideline applies to all employees, contract and temporary employees, visitors and customers on City property, regardless of whether or not they are licensed to carry a concealed weapon.

Concealed weapons for which the individual has a permit must be unloaded or properly disarmed so as to render them un-dischargeable or unusable while on City property. Further, the individual with the concealed weapon who has a permit must report to (Name) that they are carrying a concealed weapon while on City property and must show (Name) the permit. You must provide (Name) the weapon for inspection. Additional precautions may be taken depending upon the circumstances.

### 1.4 Open Records and Confidentiality

The City of Salida is governed by the Colorado Open Records Act (See C.R.S. 24-72-201 et seq.) which states that it is the public policy of the State of Colorado that all public records will be open for inspection by any person at reasonable times. Notwithstanding that general policy, the law

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<sup>7</sup> Colorado law requires public sector employers to allow employees with concealed weapons permits to have firearms at work, with some exceptions. Secured facilities, which are public buildings with security personnel or electronic weapon screening permanently in place, are exempted from this requirement and weapons can be banned. Additionally, schools are permitted to ban weapons. Sample language has been added for your consideration.



provides that some records are not open to public inspection and are to be kept confidential. Examples of such “non-public” records include but are not limited to: individual medical and mental health records; employee personnel files and reference letters; deliberative work product information; law enforcement investigation and intelligence records; privileged information and confidential commercial and financial data.

Employees of the City of Salida may work with, have access to, or gain knowledge of records or information that belongs to the City, its employees, citizens and/or suppliers and which is not open to public inspection. City employees shall maintain the confidentiality of and shall not use, disclose or in any way make available to anyone else, either outside or within the City, any confidential, non-public records or information at any time, except as directed by the City Administrator and/or in the proper performance of duties as an employee of the City of Salida. If an employee has any doubt or concern as to whether a particular record or item of information is open to the public or whether a particular disclosure is appropriate, the employee should contact the City Administrator for direction.

## 1.5 Personnel Records

The City maintains a personnel file on each employee. Personnel files are the property of the City, but every existing employee can inspect and review his or her own personnel file upon request to the City Administrator. The following persons are also authorized to access personnel files:

- The employee’s direct supervisor or department head
- The City Administrator
- The City Attorney
- Administrative personnel in the course of updating basic data; and
- An employee’s designated representative, ~~who must be submitted in with a writ~~writtening and signed authorization by the employee.<sup>8</sup>

An employee who wishes to review ~~his/her~~their<sup>9</sup> personnel file should submit a written request to the custodian of the personnel files. ~~A date and hour~~An appointment will be ~~set~~scheduled within three (3) working days at which time the records will be available for inspection.

Other than as required by the Colorado Open Records Act, C.R.S. § 24-72-102 *et seq.*, no documents shall be released from a personnel record without a consent from the employee designating the documents to be released, the person or entity to which the release is to be made, and indemnifying and holding harmless the City from any liability, claims, and demands resulting from such release.

Each employee must provide written notice to the City Administrator of any changes to the employee’s legal name, marital status, ~~dependent’s status~~insurance changes, tax exemptions, address and/or telephone number, ~~residence, telephone, beneficiary designation,~~ emergency notification, and ~~other relevant information or disclosure of any arrest~~<sup>10</sup> that occurs during employment with the City

<sup>8</sup> This sentence implies that the representative must be signed by the employee; consider rephrasing.

<sup>9</sup> Use of ‘their’ would be considered more inclusive.

<sup>10</sup> An arrest is not a conviction; why does the City require notification?

within 30 days of the change. ~~Employees must disclose a conviction of any crime within five days after such conviction.~~

## 1.6 Performance Evaluations

Communication between employer and employee is a key element in the successful operation of the City government. At least once a year, on a schedule established by the City Administrator, supervisors and employees will<sup>11</sup> endeavor to meet to discuss performance. Factors to be considered include quality and quantity of work, ability to learn, initiative, attendance and punctuality, conduct and overall performance. Goals and measures established during a formal evaluation, or on an informal basis, will form the basis of the annual evaluation and provides a forum for establishment of goals for the next period of employment. Changes in employee compensation are not necessarily tied to the time of a formal evaluation and may be made at any time the City deems appropriate.

Performance management is an on-going process. Managers and employees shall discuss progress toward performance goals and personal development throughout the year. The annual performance appraisal is a re-cap or summary of the discussions that have occurred throughout the year. Managers are encouraged to document performance discussions and, in certain situations involving performance issues, will be required to document interim discussions. Managers and Department Heads should consult with their Human Resources representative regarding performance issues and before a disciplinary process is initiated.

The formal, annual evaluation shall be in writing, in a format prescribed by the City Administrator, and shall be made a part of the employee's personnel file. Any documents or notes from meetings regarding performance should be sent to Human Resources for filing in the employee's personnel file. Having more documentation will make it easier for the manager to write the annual review. ~~With regular communication there should be no surprises in the employee's annual review.~~

Job performance evaluations do not have to be formal or in writing in order to put an employee on notice of job performance goals, achievements and deficiencies. Employees must be receptive to their supervisors' and department heads' input, instructions, and constructive criticism, whether verbal or in writing, on a day-to-day basis.

## 1.7 Attendance and Work Schedule

Regardless of what position an employee holds, punctuality and regular attendance are essential to the effective operation of the City. Regular and reliable attendance is an essential function of each and every position at the City. If an employee knows in advance ~~he or she~~<sup>12</sup> ~~is~~ they are going to be unavoidably late or absent, ~~he or she~~they must personally notify ~~his or her~~ their supervisor according to the provisions set forth in section 3.3 or 3.5.D of this manual. Departments may have additional specific procedures for such notification.

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<sup>11</sup> Be mindful that the use of definitive terms such as 'will' create a binding obligation for the organization; to the extent performance appraisals are not completed within an annual period, the City would be in violation of its own policy which may call in to question all other provisions of the handbook.

<sup>12</sup> Refer to previous comment regarding inclusive pronouns.

Assignment of scheduled working hours will be made by the employee's department head or supervisor. Likewise, scheduled working hours may change at the discretion of the employee's department head or supervisor. Employees are to be present at work during all scheduled hours, unless arrangements in accordance with the leave policies have been made. Unexcused absences and failure to be at the employee's appointed workstation at the start of the work period will result in corrective action up to and including dismissal.

## 1.8 ~~Termination~~Separation

~~Discharge can be for any reason not prohibited by law.~~ Employees are free to resign at any time for any reason. ~~Employees are requested to give at least two (2) weeks notice<sup>43</sup> of their intent to resign.~~

If you desire to end your employment relationship with the City, we ask that you notify us as soon as possible of the intended separation. Notice generally allows sufficient time to transfer work, cover shifts, return City property, review eligibility for continuation of insurance, and make arrangements for your final pay.

Employees who plan to retire are asked to provide sufficient advance notice to the City so we can timely process any pension forms or other retirement benefits to which an employee may be entitled.

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<sup>43</sup>~~Specifying a notice period can be read to undermine the at-will status of employees; sample language has been added for your consideration.~~

# WAGE AND HOUR PRACTICES

## 2.1 Pay Status and Classifications

A. Employee Type. For administrative purposes and to determine eligibility for benefits, the City classifies personnel as follows:

~~2.1. Regular~~<sup>14</sup>-Full-time (FT-R) - Persons who are ~~regularly~~ normally scheduled to work 40 hours (or more in the case of firefighters) each workweek and 52 workweeks each year are ~~regular~~ full-time employees and are eligible for all legally mandated benefits as well as City discretionary benefits outlined separately in a benefits overview document.

~~3.2. Special Full-time (FT-S)~~ - Persons who are ~~regularly~~ normally scheduled to work 30 hours or more but less than 40 hours each workweek and ~~approximately~~ at least<sup>15</sup> 50 workweeks each year are special full-time employees and are eligible for all legally mandated benefits as well as participation in City discretionary benefits, that may be limited or pro-rated, as outlined separately in a benefits overview document.

~~4.3. Part-time Benefitted (PT-B)~~ - Persons who are regularly scheduled to work 20 hours or more but less than 30 hours each workweek and ~~approximately~~<sup>16</sup> at least 50 workweeks each year are part-time benefitted employees and are eligible for all legally mandated benefits as well as ~~for~~ participation in a sub-set of City discretionary benefits outlined separately in a benefits overview document, subject to limitations in plan documents, ~~and to~~ the extent such documents differ from this policy, the plan documents will control eligibility.

~~5.4. Part-time Non-benefitted (PT)~~ - Persons ~~whose normal work is in an occupation in which the individual's services are required for~~ who are regularly scheduled to work less than 20 hours per week; ~~or an employee who, owing to personal circumstances, does not customarily work those customarily scheduled hours of 20 or more per week~~ are part-time employees. Part-time employees are not eligible for the City ~~discretionary~~ benefits except where required by law.

~~6.5. Seasonal (S)~~ - Workers performing duties of a seasonal nature, typically not to exceed 26 weeks of continuous service, are seasonal employees and are not eligible for the City ~~discretionary~~ benefits as outlined in the benefits overview document except where required by law.

~~7.6. Temporary (T)~~ - Persons ~~who have agreed to work for an impermanent period of time such as to complete a specific project, serve in an interim capacity, on an as needed or on-call basis~~ who are hired in a job established for a temporary period or for a specific assignment. Temporary employees may work either full-time or part-time depending upon the requirements of the assignment. Temporary employees working less than 30 hours per week

<sup>14</sup> Use of the term 'regular' may be problematic as it has been used to replace 'permanent' and may jeopardize the at will nature of employment.

<sup>15</sup> This is vague. Recommend switching to "and at least # workweeks each year"

<sup>16</sup> See prior comment.

are not eligible<sup>17</sup> for the City ~~discretionary~~ benefits as outlined in the benefits overview document except where required by law.

~~8.7.~~ Elected Officials (E) - The mayor, council members, ~~and treasurer and city clerk~~ who are elected ~~(or in some cases appointed by the council)~~ are not considered employees.<sup>18</sup> Elected officials are not subject to the provisions of this Manual and are not eligible for the City discretionary benefits. The City does not pay unemployment insurance for these individuals.

B. Employee Classification. Employees whose jobs are governed by the Fair Labor Standards Act (FLSA) are either “exempt” or “non-exempt.” Non-exempt employees are entitled to overtime pay. Exempt employees are not.

1. Non-exempt Employee - Non-exempt employees are generally paid by the hour and do not meet the exclusion criteria of exempt employees. They are eligible for overtime compensation in accordance with the FLSA and Section 2.5, *Overtime Compensation*.

2. Exempt Employee - Exempt employees are persons who hold positions considered to be executive, administrative, or professional as defined by the FLSA. Employees classified as exempt will receive a salary that will constitute full compensation for all hours worked and are not eligible for overtime pay or compensatory time off.

## 2.2 Paychecks and Paydays

Employees are paid on a bi-weekly basis on alternating Fridays. Time sheets must be submitted to department supervisors for review and approval no later than the Tuesday prior to payday<sup>19</sup>. A summary of the timesheets for each department is provided to the Finance Department on the Wednesday prior to payday covering the previous two-week period. In the event that a regularly scheduled payday falls on a holiday, employees will receive pay on the last day of work before the regularly scheduled payday. If a regular payday falls during an employee’s vacation, the employee’s paystub or paycheck will be available upon his or her return from vacation. Employees can elect direct deposit of their paycheck by completing the required form and providing a voided check to the Finance Department.

An employee who has lost or destroyed a paycheck must complete a Check Request form approved by ~~his/her~~<sup>20</sup> their supervisor and must submit payment to the City for the cost to stop payment on the lost check. If the employee believes the circumstances surrounding the lost or destroyed check justify a waiver of the stop payment fee, he/she may appeal the fee to the City Administrator.

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<sup>17</sup> ACA requires that health care must be offered to those employees averaging 30+ hours/week worked during the review period regardless of status.

<sup>18</sup> Elected officials are not employees; therefore, not subject to the provisions of the handbook.

<sup>19</sup> What day or days should this be done by?

<sup>20</sup> Refer to previous comment regarding inclusive pronouns.

## 2.3 Recording and Record Keeping

Accurately recording time worked is the responsibility of every non-exempt employee. Federal and state laws require the City to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties. Non-exempt employees must accurately record the time they begin and end their work, as well as the total number of hours worked during the day. Overtime work must always be approved before it is performed, except for emergency call back for operations personnel. They must record the beginning and ending time of any split shift or departure from work for personal reasons. Payroll time sheets must be initialed by the employee and department head or manager.

Altering, falsifying, tampering with time records, or recording time on another employee's time record is strictly prohibited and may result in disciplinary action, up to and including termination of employment.

## 2.4 Standby Compensation

A. Non-public-safety employees serving as scheduled standby personnel on weekends for the ~~Public Works Department~~City will be compensated at time and one-half for time actually worked, with a one-hour minimum per call. Employees receive at least \$50 per regular workday and \$75 per holiday regardless of whether they are called out. In addition, unscheduled standby personnel asked to respond to an incident will be compensated at time and one-half for time actually worked on weekends.

B. Non-public-safety employees ~~of the Water, Wastewater, and Public Works Departments~~ working a seven-day standby rotation will be paid \$100 standby pay for the seven-day standby period, plus one and a half (1½) times their regular hourly rate for time actually worked on call-outs beyond the regular forty (40) hour workweek. Managers, who are paid salary, are not eligible for additional pay for the call-out, but will receive the \$100 standby pay on their seven-day standby rotation.

## 2.5 Overtime Compensation

The FLSA requires that employees classified as non-exempt (other than police officers and firefighters who are covered by different provisions in the FLSA) are eligible for overtime pay equal to one and one-half (1½) times their regular rate of pay for each hour worked in excess of forty (40) hours in a workweek. The City's work week for FLSA purposes generally runs from Wednesday 12:00 AM to Tuesday 11:59 PM. The work week for FLSA purposes for the fire department runs from Wednesday 7:30 AM to the following Wednesday 7:30 AM. Police officers are eligible for overtime pay after working ~~171-86~~ hours in a ~~2814~~-day pay period, and firefighters are eligible for overtime pay after working ~~212-106~~ hours in a ~~2814~~-day pay period. Exempt employees are not covered by the FLSA's overtime pay provisions. Hours worked in excess of the normal work schedule before reaching ~~171-86~~ hours for police and ~~212-106~~ hours for firefighters in a ~~2814~~-day cycle are considered "straight-time" overtime and are compensated at the employee's regular rate of pay~~21-~~

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[21 Why is this considered overtime at all? To be FPPA compliant...](#)

Work will be organized so that overtime is avoided whenever possible, and then should be kept to a minimum. Any overtime must be ~~approved in advance~~coordinated by the department head.<sup>22</sup> This may take the form of direct consent each time or, alternatively, consistent application of guidelines approved by the department head. Sick, vacation, ~~comp time~~<sup>23</sup>, bereavement leave and holidays are not counted for the purpose of computing overtime.

## 2.6 Wage Deductions

A. **Required Deductions.** The City shall automatically take the legally required deductions (e.g. FICA, income tax withholdings) from gross wages. Deductions for insurance premiums and other benefits shall require the prior written authorization from the employee, except in cases of court order or where otherwise permitted by law.

B. ~~**Deductions from Exempt Employee's Salary.** Exempt employees are paid on a salary basis and, in general, must be paid their full salary for any week in which they perform work without regard to the number of days or hours worked. Exceptions to this general rule are set forth below:~~

~~1. — Exempt employees who are absent for a full day for personal reasons or because of sickness or disability need not be paid for that day once they have exhausted all applicable paid leave benefits; paid leave benefits will be reduced by eight hours (or the number of hours constituting a full day of work based on the employee's regular work schedule):~~

~~2. — Exempt employees who take leave under the Family Medical Leave Act (if it applies) will not be paid for that time unless they have accrued benefits under applicable paid leave benefits. Their pay will be reduced by the hours missed even if it is less than a full day.~~

~~3. — Exempt employees who are absent from work for jury duty, attendance as a witness at a trial, or temporary military leave will have their pay reduced by the amount of payment they receive in the form of jury fees, witness fees, or military pay (not including reimbursement of expenses). Their pay will not be reduced by the number of hours or days they are absent from work unless they perform no work for the City in a given week.~~

~~4. — If an exempt employee violates a safety rule of major significance, as defined in the FLSA, his or her pay may be reduced in an amount to be determined by the City Administrator as a penalty for that violation.~~

~~5. — Exempt employees may be suspended without pay for violating workplace conduct policies, but only in full-day increments. Their pay will be reduced in an amount that is proportionate to the number of days suspended. "Workplace conduct" policies are related to misconduct in the workplace, like engaging in prohibited discrimination and harassment, dishonesty, horseplay, rudeness, etc. "Workplace conduct" does not include performance or attendance deficiencies.~~

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<sup>22</sup> Note: any overtime hours must be paid (either cash or compensatory time), whether authorized or not.

<sup>23</sup> ~~Does the organization permit accrual/use of compensatory time in lieu of cash overtime? If you have eliminated the use of compensatory time from practice, be sure to remove all references throughout the remainder of the handbook.~~

~~6. Exempt employees who have caused the loss or destruction of property caused by the employee's gross negligence may have the costs associated with such loss or destruction deducted from their pay.~~

~~7. Exempt employees who work fewer than 40 hours during their first or last workweek of employment will be paid a proportionate part of their full salary for the time actually worked. <sup>24</sup>~~

**EB. Deductions for Property Not Returned At Termination.** Employees are entrusted during their employment with property that belongs to the City and that has value. Employees are responsible for returning this property to the City upon request or at the time of termination of employment, whichever is first. The City has the right to withhold an employee's final pay check for up to 10 days in order to audit the return of all property and to determine the value of any property not returned or returned in a damaged condition.<sup>25</sup>

1. **Deduction from Pay Check.** The City will deduct from your pay check the value of any of the City's property that is not returned within this 10-day audit period or that is returned in a damaged condition, to the fullest extent permitted by law. <sup>26</sup>

2. **Damages and Penalties.** Employees are responsible for paying to the City the balance of any amount owed for property not returned to the City or returned to the City in a damaged condition. Employees who convert or steal the City's property may be liable to the City for three times the value of the property not returned, plus the City's costs and attorneys fees incurred in obtaining a judgment for the damages and penalties, pursuant to Colorado's civil theft statute (§18-4-405).<sup>27</sup>

### **C. Salary for Exempt Employees**

It is our guideline to comply with the salary basis requirements of the FLSA. Therefore, we prohibit all company managers from making any improper deductions from the salaries of exempt employees.

Deductions from salaries that are permissible:

**1. Personal absences.** Employers may deduct for full day absences for personal reasons other than sickness or disability.

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<sup>24</sup> Deductions for the loss or destruction of property does not constitute a proper deduction for exempt employees; best practice is to include a guideline prohibiting improper deductions. Sample language has been added for your consideration.

<sup>25</sup> The City is not subject to the Colorado Wage Act, which requires written authorization to deduct most debts; however, be sure nothing in your practice authorizes a deduction below the minimum wage applicable under the Fair Labor Standards Act (FLSA). In addition, this only applies to nonexempt employees as it may constitute an improper deduction for exempt staff.

<sup>26</sup> Refer to previous comment regarding improper deductions. An employer cannot hold the final paycheck "hostage" pending return of property.

<sup>27</sup> Refer to previous comment regarding improper deductions.



2. Absences for illness or injury. Employers may deduct for full day absences due to illness or injury if bona fide sick pay/disability plans are in place.
3. Absences for FMLA Leave. Employers may deduct for full day absences taken as FMLA leave and partial day absences for hours taken as intermittent or reduced FMLA leave.
4. Offsets. Employers may offset employees' pay for amounts received by the employee for jury fees, witness fees, or military pay.
5. Infractions of safety rules. Employers may deduct for penalties imposed when salaried employees violate safety rules of major significance.
6. Infractions of workplace conduct rules. Employers may suspend exempt employees without pay for full days for infractions of written workplace conduct rules. This deduction is meant to cover only suspensions for "serious workplace misconduct" such as sexual harassment or drug and alcohol violations.
7. First or last weeks of employment. Employers may make partial week payments during an employee's first or last weeks of employment.

If you believe that an improper deduction has been made to your salary, you should immediately report this information to Human Resources.

Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, you will be promptly reimbursed.

## **2.7 Differential Pay for Temporary Assignment**

Employees who are temporarily assigned to higher grade position for a minimum of 30 days may be awarded a differential pay increase for the duration of the assignment, with a range of 5-25% (depending on circumstances) of their pay rate. Requests for Differential Pay shall be submitted to and approved by the City Administrator. Differential Pay for an Acting City Administrator and other special circumstances outside of the parameters within this paragraph require City Council approval.

## EMPLOYEE BENEFITS AND LEAVES

### 3.1 Employee Benefits

The following benefits are offered to certain employees based on employee type as defined in section 2.1 and subject to plan documents and provider agreements.<sup>28</sup>

Employee Benefit Offering	Employee Type		
	FT-R	FT-S	PT-B
1. Medical Insurance	X	X	
2. Life Insurance	X	X	X
3. Accidental Death and Dismemberment	X	X	X
4. Short-term Disability	X	X	
5. Long-term Disability	X	X	
6. Tele-doctor Service	X	X	X
7. Dental Insurance	X	X	X
8. Supplemental Accident and/or Critical Illness	X	X	X
9. Free Swimming at Salida Hot Springs Aquatic Center for employee	X	X	X
10. Free Swimming at Salida Hot Springs Aquatic Center for immediate family members (all pool employees eligible)	X	X	
11. Discounted golf pursuant to the most current agreement with the facility operator	X	X	
12. Paid Vacation	X		
13. Paid Sick Leave	X		
14. Paid Holidays	X		
15. Retirement Savings – 457 deferred savings plans	X	X	X
16. Retirement Savings – 401(a) or FPPA plans	X		
17. Section 125 Cafeteria Plan	X	X	

Part-time employees who work less than 20 hours or more per week, seasonal employees and temporary employees are not eligible for the City discretionary benefits except for a free individual pool pass to the Hot Springs Aquatic Center.

Elected officials are eligible to receive free family swimming at the Hot Springs Aquatic Center.<sup>29</sup>

A summary of the insurance benefits and cafeteria plan can be found at the ADP portal at <https://portal.adp.com/public/index.htm>. For more detailed benefit information, contact the

<sup>28</sup> Gym memberships, discounts, free passes, etc., are not typically included in the handbook as they may be subject to change with each benefit year; consider generalizing in the handbook and providing greater detail during open enrollment and/or onboarding. Benefits eligibility is captured in the *Employment Classifications* section and does not need to be repeated.

<sup>29</sup> Refer to previous comment regarding elected officials.

Finance Director. Medical insurance eligibility begins the first day of the month following the full-time hire date. However, eligibility for insurance is governed by the plan, and to the extent it differs from this policy, the plan controls. City contributions to the 401(a) retirement plan begin at the start of the pay period after six months from the date of hire for ~~Regular~~ Full-time employees.

### 3.2 Workers' Compensation

The City provides Workers' Compensation Insurance as required by law for employees who suffer job-related injuries or diseases. Employees must verbally report the injury or disease to the department head immediately, and then notify, in writing, the City as soon as practicable but in any event within four working days after the accident. Alcohol and Drug testing may be required, pursuant to applicable laws, if the employee's own actions or omissions could possibly have caused the accident that led to injury. Failure to report the injury and to timely submit to testing, if required, could result in discipline or discharge.

~~————~~**WARNING:**  
~~————~~

~~————~~**IF YOU ARE INJURED ON THE JOB, WRITTEN NOTICE OF YOUR INJURY MUST BE GIVEN TO THE CITY WITHIN FOUR WORKING DAYS AFTER THE ACCIDENT, PURSUANT TO SECTION 8-43-102(1), COLORADO REVISED STATUTES. DELIVER THE NOTICE TO YOUR DEPARTMENT HEAD OR THE CITY ADMINISTRATOR.**

~~IF THE INJURY RESULTS FROM YOUR USE OF ALCOHOL OR CONTROLLED SUBSTANCES, BENEFITS MAY BE REDUCED BY ONE-HALF IN ACCORDANCE WITH SECTION 8-42-112.5, COLORADO REVISED STATUTES.<sup>30</sup>~~

The City has the right to require that employees are treated by a treating physician selected from a list of physicians designated by the City. The department head shall provide the injured employee with a list of designated treating physicians. Failure to use a physician from the designated list may result in loss of medical benefits. The injured employee is responsible for arranging an appointment with a designated treating physician.

The injured employee's treating physician may recommend that he or she return to work on limited duty. In such event, the City may require the employee to return to work performing duties within the medical restrictions even if such work is different than the employee's regular job duties. An employee's refusal of limited duty may be the basis for discipline or discharge, ~~unless the employee is entitled by law to FMLA leave.~~<sup>31</sup>

### 3.3 Vacation Time

Unless different provisions are agreed upon through the hiring process, the following vacation benefits shall apply for all ~~regular~~ full-time employees.

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<sup>30</sup> This section is redundant and may be removed.

<sup>31</sup> Use of the term 'may' is sufficient and does not require additional qualification.

A. Eligibility. ~~Regular f~~Full-time employees are eligible for paid vacation leave. Vacation may be taken only with approval of the employee's supervisor and/or department head, ~~which approval will not be unreasonably withheld.~~<sup>32</sup> An employee planning to take 80 hours or more of vacation (96 hours for firefighters) at one time must also receive approval from the City Administrator.

B. Vacation Accrual. An employee who begins ~~regular~~ full-time employment will accrue vacation at a rate of 3.08 hours of vacation per pay period (4.3 hours per pay period for fire fighters) for that year; ~~however, vacation is not vested and may not be taken until after six months of continuous employment. Accordingly, should an employee leave within six months of their hire date, she or he will not be entitled to a pay-out of any accrued vacation time.~~<sup>33</sup>

Beginning with the first payroll cycle of each new calendar year after an employee's full-time hire date, vacation accrues according to the following schedule:<sup>34</sup>

- One (1) to four (4) years of full-time employment: 80 hours per year (112 hours for firefighters).
- Five (5) to ten (10) years full-time employment: 120 hours per year (168 hours for firefighters).
- After ten (10) years full-time employment: 160 hours per year (224 hours for firefighters).

Annual accrued vacation as described above shall be delivered into an employee's accrued account with one half (1/2) deposited on January 1 of every year, with the remaining one half (1/2) deposited on July 1 of every year.

Vacation is not accrued during an unpaid leave of absence. During paid leaves, vacation is accrued at the normal rate.

The City Administrator has the authority to give years of service credit for previous similar employment for vacation accrual purposes during pay negotiations at the time of hire.

Employees may carryover to the following year a maximum of ~~forty (40) hours of accrued vacation (56 hours for firefighters)~~ a full year's accrual annually. In addition, ~~if an employee is requested by a department head and/or the City Administrator to postpone vacation due to the work requirements of the City, the employee may carryover up to one additional week of vacation to the next year~~ may allow additional carryover if extenuating circumstances warrant it. Written authorization of the carryover from the City Administrator must be submitted to the Finance Department for proper record keeping.

<sup>32</sup> How is 'unreasonably' defined?

<sup>33</sup> The City is not subject to the Colorado Wage Act, which requires pay out of earned, unused vacation at separation. Most public entities opt to comply; however, you are welcome to set practice based on the business needs of the organization.

<sup>34</sup> The accrual rate was referenced by number of hours per pay period; be consistent to avoid confusion.

If a ~~regular~~ full-time employee changes to special full-time, temporary, seasonal or part-time status, accrual will discontinue upon the date of change. Any unused vacation must be used or paid out during that calendar year.<sup>35</sup>

### 3.4 Paid Holidays

A. Eligibility. Only ~~regular~~ full-time and full-time special (FT-S) employees are eligible for paid holiday leave or holiday premium pay, unless on an unpaid leave of absence. Full-time special employees would receive holiday pay or holiday premium pay only if their normal work schedule falls on a holiday and their pay would be limited to the number of hours normally scheduled.

B. Recognized Holidays. Except for those employees in departments that run seven-day operations, full-time employees shall receive Holiday Pay for the following days, which have been designated as official paid holidays when department offices are closed. Changes in the holiday schedule will be authorized ~~only~~ by City Council:

List of Recognized Holidays:

New Year's Day	Veterans' Day
Martin Luther King Day	Thanksgiving Day
Presidents' Day	Day after Thanksgiving
Memorial Day	Christmas Day
Independence Day	Labor Day

C. Holiday Pay. Holiday Pay is an eight-hour day, eleven-hour day for firefighters, at regular pay rate. When a holiday falls on a Saturday, the previous Friday will be designated as the official holiday. When a holiday falls on a Sunday, the following Monday will be designated as the official holiday, except for ~~shift workers~~<sup>36</sup> non-essential hourly non-exempt workers who will take the holiday as it falls. Official holidays commence at the beginning of the first shift of the holiday and continue for twenty-four (24) hours.

D. Holiday Pay for ~~Seven-day operations~~ Non-Exempt Workers

1. When a non-exempt employee works on an official holiday, the employee will ~~be paid~~ receive premium holiday pay at time and one-half regular pay for the hours worked, plus Holiday Pay.
2. When a non-exempt employee has the holiday as a regularly scheduled day off, the employee will be paid Holiday Pay.
3. When an employee is sick on an official holiday, the time will be considered a holiday.

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<sup>35</sup> Refer to previous comment regarding the Colorado Wage Act. Best practice; however, is to pay out any unused accrued vacation leave at time of classification change.

<sup>36</sup> I don't think this is defined above.

4. When an official holiday falls during a paid absence, the day will be considered a paid holiday.

E. Personal Floating Holiday. In addition to the designated holidays, every ~~regular~~ full-time employee is eligible for one personal floating holiday. The personal floating holiday is one shift off to be scheduled with a department head just as vacation time is scheduled. ~~A new employee is not eligible for the personal floating holiday during the first calendar year of employment unless their hire date is prior to June 1<sup>st</sup>. New employees hired after June 1<sup>st</sup> of each year are not eligible for the personal floating holiday within the same calendar year.~~

### 3.5 Sick Leave

- A. Eligibility. Sick leave is available to ~~regular~~ full-time employees only.

B. Accrual. Sick leave accrual starts on the employee's most recent full-time hire date and may be used immediately. Eligible employees accrue 8 hours of paid sick leave per month, 11 hours per month for firefighters. The benefit accrues on the last day of the month for the month just ended. Sick leave does not accrue during unpaid leaves ~~or during suspension~~.<sup>37</sup> Sick leave may be carried over from year to year for a maximum of 120 hours (or 168 hours for firefighters) except, ~~however~~, that employees who had accrued a greater number of hours prior to this policy are allowed to retain those hours until used or their employment is terminated. No additional hours will be accrued until the employee's balance is reduced to 120 hours (or 168 for firefighters). Accrued, unused sick leave is not paid upon termination of employment ~~and is forfeited~~. In addition, ~~the~~ employees who deferred payment of accrued sick leave in accordance with the 2003 "Agreement for Payment of Unused Sick Hours" will be allowed to retain up to 480 hours ~~so as to~~ avoid an automatic forfeiture ~~as the direct resulting result of from~~ new accrual limits imposed effective January 1, 2015.

C. Use of Sick Leave. Sick leave is granted in not less than one-hour units. Employees may use accrued sick leave for the following reasons: employee's personal illness or physical incapacity; dental, ocular or doctor appointments which are of necessity and cannot be scheduled during non-working hours; in accordance with Domestic Violence Leave; or in certain circumstances to allow an employee to provide care for his/her spouse, domestic partner or dependents.

D. Authorization of Sick Leave. Department heads are responsible for authorizing sick leave. In order for sick leave to be authorized, an employee must personally contact ~~their/his/her~~ supervisor as soon as possible or at least within one hour prior to the start of the employee's scheduled shift. If the supervisor is not available, the employee must personally speak with and leave the information with the department head or another supervisor. Notifying a coworker or leaving messages is not sufficient. For late arrivals, the employee must indicate when ~~they/he/she~~ expects to arrive for work. If the employee is unable to call in themselves because of an illness, emergency or for some other reason, ~~they/he/she~~ must have someone call on ~~their/his/her~~ behalf. If the department head determines that it was not possible for the employee to make contact in the allotted time, the department head may still authorize the sick leave. Thereafter, the employee must keep the

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<sup>37</sup> This is rather random; why is suspension noted here?

department head apprised of the illness ~~at least~~ on a daily basis unless otherwise approved by the department head.<sup>38</sup>

E. Medical Certification. The City reserves the right to require employees to substantiate and/or document their need for sick leave, whether it is based on their own physical condition or the condition of an immediate family member. The City also reserves the right to evaluate requests for and extensions of, sick leave and medical leaves of absence by consulting with the physician of the employee<sup>39</sup> or with the City's own medical consultants, and retains the right to request that the employee seek a second opinion of the illness/disability from a physician of the City's choice. The City may also request the employee provide medical certification from the employee's personal physician and/or from a doctor of the City's choice at the City's expense. Employees are expected to return to work based upon information provided to the City by the employee's attending physician, and the City may require the employee to submit to a medical examination by a physician designated by the City upon ~~their~~his/her return. Any illness or injury of the employee or the employee's immediate family member requiring an employee to miss four (4) regularly scheduled work days will require a physician's statement verifying the condition of the person under the physician's care. At the end of sick leave, the City may require a physician's statement verifying the employee's fitness to return to work.

F. Compensation for Sick Leave. One hour of sick pay is equal to one hour at the employee's regular hourly rate of pay. Sick leave pay is reflected on the paycheck issued for the pay period in which the sick leave was used.

G. Sick Leave Conversion. After all accrued sick leave is used, vacation leave may be used according to the provisions of the vacation leave policy.

H. Reliability. Reliable attendance is an essential job function of every position with the City. Abuse of sick leave, falsifying the need for sick leave, or failing to return to work or periodically contacting an employee's supervisor as required (unless physically incapacitated), will result in discipline or discharge.

I. Unpaid Sick Leave. Employees ineligible for paid sick leave may request ~~their supervisor for~~ an unpaid medical or unpaid personal leave of absence from their supervisor. The leave may be granted if the supervisor feels that the work of the department will not be adversely effected or create an otherwise avoidable overtime situation.<sup>40</sup>

J. Bonus for Unused Sick Leave. Any employee who uses one shift or less of sick leave in a calendar year will be granted an additional shift of personal leave the following calendar year, to be scheduled like vacation leave.

### 3.6 Statutory Leaves of Absence

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<sup>38</sup> This is okay as long as the practice is equitably and consistently applied across the organization.

<sup>39</sup> This may not be appropriate in all circumstances.

<sup>40</sup> Be mindful that leave may be required by law, even when inconvenient (e.g., ADA accommodation).

A. Purpose. The following leaves are required by law. This policy is intended to comply with the legal requirements. It is not intended to provide rights or create obligations in addition to the legal requirements. Therefore, if the laws upon which these policies are based are changed, the policies are automatically changed to comply with the revised laws.

B. Jury Duty. If an employee is served with a summons to jury duty, the employee must inform his or her department head by the next regular work day and provide a copy of the summons. The employee will receive leave for jury duty. Non-exempt employees will be paid their regular wages for the first three days of jury duty that they would otherwise have been scheduled to work. Thereafter, any pay they receive for jury duty is paid by the governmental entity requesting the employee to participate in the jury service. Exempt employees will receive their regular salary during jury duty but must remit to the City any pay (not including expense reimbursement) received from the government for jury duty that covers the same period for which the exempt employee is receiving pay from the City. The City has no obligation to pay wages for jury duty until and unless the employee tenders to the City a juror service certificate provided by the court confirming that the employee was on jury duty during that period. Employees are expected to return to work on any day or portion of a day they are released from jury duty.

C. Voting Leave. Employees who are ~~registered~~<sup>41</sup>, eligible electors entitled to vote at an election shall be entitled to two hours off, with pay, for the purpose of voting on the day of the election during the time the polls are open, if they advise their department head of the leave of absence prior to the day of election and if they have less than three hours between the time of opening and the time of closing of the polls during which they are not required to be on the job for the City. The City may specify the hours during which the employee may be absent.

D. Military Duty. Employees will be allowed leave of absence for military duty in compliance with applicable Federal and State laws. Employees must present official documentation of the military duty prior to the leave and upon returning from leave. Military leave for non-exempt employees is without pay. Exempt employees will be paid their salary, unless no work is performed for the City during the pay period, and subject to reduction for wages received from the Military for the same period. The City will use its best efforts to accommodate monthly military training.<sup>42</sup>

Employees granted a military leave of absence are re-employed and paid in accordance with the laws governing veteran's re-employment rights. The Organization pays for the first 15 days of leave. After that time, leave is without pay.

~~E. Civil Air Patrol Mission Leave. Any regular full-time or part-time employee who is a member of the Civil Air Patrol, Colorado Wing, and who is called to duty for a Civil Air Patrol Mission is entitled to an unpaid leave of absence for the time when the employee is engaged in the mission, not to exceed a total of fifteen work days in any calendar year. The leave shall be allowed only if the employee gives evidence to the City of the satisfactory completion of the Civil Air Patrol service. This~~

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~~<sup>41</sup> There is same day voter registration.~~

~~<sup>42</sup> Colorado statutes require public employers to grant service members military leave without loss of wages for up to 15 days in the leave year established by the employer; and to maintain seniority, status, efficiency rating, vacation, sick leave, and other benefits of the service member for those days. Sample language has been added for your consideration.~~



~~period of leave shall in no way affect the employee's rights to other paid leaves for which the employee is eligible, bonuses, advancement, or other employment benefits or advantages relating to and normally to be expected for the employee's particular employment. Leave is allowed only if the employee returns to his or her job as soon as practicable after being relieved from service for the Civil Air Patrol Mission. The employee satisfying these requirements and all statutory requirements set forth in CRS §28-1-102 through §28-1-106 shall be entitled to return to the same or a similar position as held before leave began.~~

F. Emergency Volunteer Service Leave. Any ~~regular~~ full-time or part-time employee who is a "Qualified Volunteer" called to service by a "Volunteer Organization" for the purpose of assisting in a "Disaster" as these terms are defined by CRS §24-32-2202 through §24-32-2228, is entitled to an unpaid leave of absence for the time spent assisting, not to exceed a total of fifteen work days in any calendar year. In order to be eligible for this leave, the employee must comply with all requirements of these statutes, including, without limitation, providing the City with proof that he or she is a Qualified Volunteer. Leave need not be granted if the employee is designated an "Essential Employee" by the City (meaning the employee is essential to the operation of the daily enterprise whose absence would likely cause the City to suffer economic injury or whose duties include assisting in disaster recovery for the City) or if granting the leave would result in more than 20% of the City's employees being on Emergency Volunteer Service leave on any work day. This period of leave shall in no way affect the employee's rights to other paid leaves for which the employee is eligible, bonuses, advancement, or other employment benefits or advantages relating to and normally to be expected for the employee's particular employment. Leave is allowed only if the employee returns to his or her job as soon as practicable after being relieved from Emergency Volunteer Service. The employee satisfying the statutory requirements shall be entitled to return to the same or a similar position as held before leave began.

### **3.7 Domestic Violence Leave**

A. Statutory Rights. Domestic Violence Leave is governed by Colorado law, C.R.S. 24-34-402.7, and is available only to individuals who qualify under the law, as it may be amended from time to time. The provisions of this policy are intended to comply with the state law and not to create rights that are different from or in addition to the law. This policy is automatically amended or repealed if the state law is amended or repealed.

B. Eligibility. In order to qualify for Domestic Violence Leave, the City must have 50 or more employees, and the employee must have been employed by the City for 12 months or more, must be a victim of a crime of domestic violence, must have a qualifying reason for the leave and must provide the City sufficient notice of this qualifying reason.

C. Leave Benefit. Eligible employees shall be permitted to take up to three working days of unpaid leave from work in any twelve-month period, for a qualifying reason, if the employee is the victim of a crime of domestic violence.

D. Crime of Domestic Violence. A crime of domestic violence includes domestic abuse, stalking, sexual assault, and any other crime, the underlying factual basis of which has been found by a court on the record to include an act of "domestic violence" as defined by state law.

E. Qualifying Reasons for Leave. The employee must be using the leave from work to protect himself or herself by:

1. Seeking a civil restraining order to prevent domestic abuse;
2. Obtaining medical care or mental health counseling or both for himself or herself or for his or her children to address physical or psychological injuries resulting from the act of domestic abuse, stalking, or sexual assault or other crime involving domestic violence;
3. Making his or her home secure from the perpetrator of the act of domestic abuse, stalking, or sexual assault or other crime involving domestic violence or seeking new housing to escape the perpetrator;
4. Seeking legal assistance to address issues arising from the act of domestic abuse, stalking, or sexual assault or other crime involving domestic violence and attending and preparing for court-related proceedings arising from the act or crime.

F. Notice to the City. Except in cases of imminent danger to the health or safety of the employee, an employee seeking leave from work under this policy shall provide a department head with advance notice by the next business day after the employee becomes aware of the need for leave. The request must be accompanied by a copy of any subpoenas, court orders, police reports, medical provider's statements or other documentation that will substantiate the need for leave. In the event prior notice is not possible because of imminent danger, the employee must provide notice and supporting documentation, as required above, at the earliest opportunity.

G. Exhaustion of Other Paid Leave. Domestic Violence Leave is unpaid leave, unless the employee has accrued vacation or sick leave benefits available. In this event, the Domestic Violence Leave will be used simultaneously with ~~vacation-sick~~ time first and then ~~sick-vacation~~ leave,<sup>42</sup> to the extent available so that the leave will be paid. If the available sick leave and vacation time are less than three days, the remainder of the Domestic Violence Leave will be unpaid.

H. Confidentiality. The law requires the City to treat an employee's request for and use of this leave as confidential and shall discuss it only with those individuals who need to know for purposes of confirming the employee's need for leave, granting or denying the request, coordinating the employee's absence and work coverage during the period of absence, or for other legitimate business needs.

I. No Retaliation. An employee shall not be retaliated against for any request or use of this leave when the request or use is pursuant to an honest belief that the Domestic Violence Leave law applies to the circumstances.

J. No Greater Rights. An employee shall have no greater rights to continued employment or to other benefits and conditions of employment than if the employee was not entitled to leave under this policy. Nothing in this policy shall be construed to limit the City's right to discipline

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<sup>42</sup> ~~To the extent you permit use of sick leave, it would be more appropriate to use sick first, then vacation.~~

or terminate any employee for any reason, including but not limited to reductions in work force or termination for cause or for no reason at all, other than exercising his or her rights under this policy.

### 3.8 Family and Medical Leave of Absence

A. Statutory Rights Only. This policy is to be read in accordance with the Family Medical Leave Act (“FMLA” or “Act”) of 1993, as amended. The policy is intended to explain those rights and obligations required by the Act and is not intended to create any additional or contractual rights or obligations. This policy applies only if the City has 50 or more persons on its payroll during at least 20 workweeks of the current calendar year or 20 workweeks of the last calendar year.

B. Eligibility. To be eligible for FMLA leave, an employee must have been employed for at least 12 months (total, but not necessarily continuous) by the City, must have worked at least 1,250 hours for the City during the 12 months before leave is to be taken, and must be employed at a work-site where the City employs at least 50 employees within 75 miles.

C. FMLA Benefit. Eligible employees shall be granted a total of 12 weeks of FMLA leave during a rolling 12-month period for one or more of the following:

1. ~~Because of the birth of a son or daughter of the employee and in order to care for such son or daughter;~~
  2. ~~Because of the placement of a son or daughter with the employee for adoption or foster care;~~
  3. ~~In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.~~
  4. ~~Because of a serious health condition that makes the employee unable to perform the functions of the position of the employee.~~
  5. ~~Because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty, or has been notified of an impending call or order to active duty, in the Armed Forces in support of a contingency operation.~~
- ~~A “week” is equal to the average weekly hours worked by the employee during the 12 weeks prior to the start of the leave. A “rolling” 12-month period is the 12 months immediately preceding the date of leave under consideration for FMLA benefits.~~
- ~~In any case in which husband and wife are both employed by the City, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during the rolling 12-month period, if such leave is taken for reasons set forth in subparagraph 3.a. or 3.b., or in order to care for a sick parent under subparagraph 3.c.~~

~~D. Service Member Family Leave. Subject to meeting certification requirements by the health care provider, an eligible employee who is the spouse, son, daughter, parent, or next of kin (nearest blood relative) of a covered service member shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the covered service member.~~

~~1. "Covered service member" means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.~~

~~2. The leave described in this paragraph shall only be available during a single 12-month period (meaning it can only be used once). During the single 12-month period, an eligible employee shall be entitled to a combined total of 26 workweeks of leave under FMLA benefits and Service Member Family Leave. This does not limit the availability of FMLA leave during any other 12-month period.~~

~~3. Where husband and wife are both employed by the City, the aggregate number of workweeks of leave to which both husband and wife may be entitled for service member family leave may be limited to 26 workweeks during the single 12-month period if the leave is service member family leave or a combination of such leave and FMLA leave. If the leave taken by husband and wife includes leave for the FMLA reasons described in paragraph 3 above, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks for that FMLA purpose (see paragraph D).~~

~~Reference to FMLA leave in this policy includes Service Member Family Leave, unless stated otherwise.~~

~~E. Serious Health Condition. A "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility; any period of incapacity requiring absence from work, school or other regular daily activities of more than three calendar days; that also involves continuing treatment by a health care provider; continuing treatment by a health care provider for a chronic or long term health condition that is incurable or so serious that if not treated would likely result in a period of incapacity of more than three calendar days; or prenatal care.~~

~~F. Serious Injury or Illness. The term "serious injury or illness," in the case of a covered services member, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank or rating.~~

~~G. Intermittent/Reduced Schedule. In general, FMLA leave shall not be taken by an employee intermittently or on a reduced schedule basis unless the eligible employee and the City agree otherwise. If the FMLA leave involves a serious health condition as defined above, leave may be taken intermittently or on a reduced schedule basis~~

~~when medically necessary. If an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the City may require such employee to transfer temporarily to an available alternative position for which the employee is qualified that has equivalent pay and benefits, and which better accommodates the recurring periods of leave. An employee who is unable to perform their regular job duties because of medical restrictions related to a serious health condition may elect to perform a modified light-duty position that is within the employee's medical restrictions, if offered by the City, instead of taking FMLA leave.~~

~~H. Notice of Need for FMLA Leave. In any case in which the necessity for FMLA leave is foreseeable, the employee shall provide the City with at least 30 calendar days notice before the date the leave is to begin, or as much notice as is practical. In any event, notice must be provided within two working days of the employee's awareness of the need for leave. The notice should be in writing and must make the City aware that the employee needs leave for one of the reasons described above and the anticipated timing and duration of the leave. This does not relieve employees who are absent for a sudden illness or injury, even if it qualifies as FMLA leave, from giving notice to their department head each day as required by the Sick Leave policy. Once it is determined that an employee qualifies for FMLA leave, daily notice is not required during the period of approved FMLA leave unless otherwise provided in this FMLA policy.~~

~~I. Notice of Leave Due to Active Duty of Family Member. In any case in which the necessity for leave is due to a qualifying exigency relating to a service member (subparagraph 3.e. above) is foreseeable because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the City as is reasonable and practicable.~~

~~J. Certification of Need for Leave. The City may require that a request for leave involving a serious health condition or to care for a service member be supported by a certification issued by a health care provider of the eligible employee, son, daughter, spouse, parent or next of kin of the employee, as appropriate. The certification shall state:~~

- ~~1. The date on which the serious health condition commences;~~
- ~~2. The probable duration of the condition;~~
- ~~3. The appropriate medical facts within the knowledge of the health care provider regarding the condition;~~
- ~~4. For purposes of leave under subparagraph C.3., a statement that the employee is needed to care for the child, spouse or parent and an estimate of the amount of time the employee is needed;~~
- ~~5. For purposes of leave under subparagraph C.4., a statement that the employee is unable to perform the functions of the employee's job position;~~
- ~~6. In the case of certification for intermittent leave, or leave on a reduced schedule, for planned medical treatment, the dates on which the treatment is expected to be given and the duration of the treatment, the medical necessity for the intermittent~~

~~or reduced schedule leave for the employee's own serious health condition or to care for another with a serious health condition.~~

~~The City may require, at its own expense, the employee obtain a second opinion from a health care provider designated or approved by the City.~~

~~K. Continuation of Health Insurance Benefits. Employees on FMLA leave are entitled to a continuation of any group health insurance benefits to which they are normally entitled and reinstatement to the same or equivalent position. The City will pay its normal contribution to the health insurance premiums of employees who are on FMLA leave, but the City's obligations (if any) to contribute to health insurance premiums and to restore the employee to similar employment terminates when the employee gives the City unequivocal notice of intent not to return to work.~~

~~L. Loss of Insurance Benefits. An employee's failure to pay his or her share of the premiums may result in loss of coverage. Should an employee fail to pay their share of premiums during their leave period, the City may elect to pay the employee's share as an advance against future wages in order to maintain coverage while the employee is on FMLA leave. In this event, the City has the right to deduct the amount advanced from the employee's paycheck upon return to work. This right to pay the employee's premium by the City is solely at the City's discretion and this policy does not give an employee any right to demand that the City pay the employee's portion of the insurance premium.~~

~~M. The City's Right to Recover Insurance Premiums. The City may recover from the employee the City's portion of premiums paid during any period of unpaid FMLA leave if the employee fails to return to work, as defined by the Act, after the employee's FMLA leave entitlement has expired, unless the reason that the employee does not return is due to: (1) the continuation, recurrence of or onset of a serious health condition that would entitle the employee to Family and Medical Leave (either affecting employee or his or her immediate family) or (2) other circumstances beyond the control of the employee.~~

~~N. Medical Recertification. Employees on FMLA leave because of a serious health condition are required to furnish medical recertification from their health care provider every 30 days affirming their continuing need for leave. Employees on FMLA leave are also required to furnish the City with periodic reports every 30 days of their intent to return to work. If the circumstances of an employee's leave changes, and the employee is able to return to work earlier than the date originally indicated, employee will be required to notify the City at least two work days prior to the date the employee intends to report for work.~~

~~O. Fitness for Duty. Before an employee may return to work following FMLA leave as a result of the employee's own serious health condition, the employee must provide the City with a certification issued by a health care provider stating that the employee has the ability to perform his or her regular job and explaining any restrictions on regular job duties. Employees with restrictions will be allowed to return to work only~~

if they can perform the essential job functions with or without a reasonable accommodation.

- ~~P. Extension of Leave. If for any reason the City grants an employee additional leave after the employee has exhausted all FMLA leave, such leave shall be unpaid discretionary leave not subject to the rights and obligations of the Family and Medical Leave Act. It shall not require the City to pay any portion of the employee's health insurance premiums and shall not guarantee employee's return to the same or equivalent position upon return to work. The City has no obligation under this policy or the Act to grant leave in excess of the 12-week leave required by the FMLA.~~
- ~~Q. Use of Paid Leave During FMLA. An employee is required to exhaust his or her accrued vacation and sick leave, if any, during FMLA leave. FMLA leave is, otherwise, unpaid leave. The total period of absence considering all paid leave (e.g., vacation, sick) and family leave used for reasons covered by this Family and Medical Leave policy cannot exceed 12 weeks in a rolling 12-month period, unless Service Member Family Leave is being used in which case the total period of absence may not exceed 26 weeks in a rolling 12-month period. No paid leave benefits accrue while on unpaid FMLA leave.~~
- ~~R. Forms. Forms are available on the employee portal or from the human resources representative for requesting FMLA leave and for fulfilling Medical Certification requirements.~~
- ~~S. Termination During Leave. Employees on FMLA leave generally have a right to return to the same position or an equivalent position with equivalent pay, benefits and other terms and conditions of employment. However, this does not entitle the restored employee to accrual of any seniority or employment benefits during any period of leave, or any right, benefit or position of employment other than that which the employee would have been entitled to had the employee not taken the leave. This means that an employee on FMLA leave may be laid off or terminated during the leave period for cause or business necessity or no reason, the same as any other employee, so long as the lay-off or termination is not because of the Employee's legitimate use of FMLA leave.~~
- ~~T. Key Employee Exception. The City may deny restoration of a "key employee" following FMLA leave if (i) such denial is necessary to prevent substantial and grievous economic injury to the operations of the City (ii) the City notifies the employee of the intent of the City to deny restoration on such basis at the time that the City determines that such injury would occur; and (iii) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice. A "key employee" is a salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by the City within 75 miles of the employee's worksite.<sup>44</sup>~~

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<sup>44</sup> The language required under the FMLA is fairly specific; recommend you use the Employers Council verbiage to ensure compliance.

The Organization provides up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- Incapacity due to pregnancy, prenatal medical care, or child birth.
- To care for the employee's child after birth, or placement for adoption or foster care.
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition.
- Serious health condition that makes the employee unable to perform the employee's job.

### **MILITARY FAMILY LEAVE ENTITLEMENTS**

Eligible employees with a spouse, son, daughter, or parent on active duty or called to active duty status in the Armed Forces, National Guard, or Reserves may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness\*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.\*

\*The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition."

### **Benefits and Protections**

During FMLA leave, the Organization maintains the employee's health coverage under any group health plan on the same terms as if the employee had continued to work. Employees must continue to pay their portion of any insurance premium while on leave. If the employee is able but does not return to work after the expiration of the leave, the employee will be required to reimburse the Organization for payment of insurance premiums during leave.

Upon return from FMLA leave, most employees are restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. Certain highly compensated employees (key employees) may have limited reinstatement rights.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave. As with other types of unpaid leaves, paid leave will not accrue during the unpaid leave. Holidays, funeral leave, or employer's jury duty pay are not granted on unpaid leave. **(Employers must modify this section to indicate whether paid leave continues to accrue during FMLA.)**



### **Eligibility Requirements**

Employees are eligible if they have worked for this Organization for at least 12 months, for 1,250 hours over the previous 12 months, and if they work at a work site with at least 50 employees within 75 miles. (Employers may elect not to enforce this last requirement for employee relations' reasons, such as wanting consistency between small and large work sites.)

### **Definition of Serious Health Condition**

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents a qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive full calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

### **Use of Leave**

The maximum time allowed for FMLA leave is either 12 weeks in the 12-month period as defined by the Organization, or 26 weeks as explained above. (Employers should specify here their definition of 12-month period. For example, "The Organization uses the 12-month period measured forward from the first day of an employee's leave.")

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the Organization's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Employees taking intermittent or reduced schedule leave based on planned medical treatment and those taking intermittent or reduced schedule family leave with the Organization's agreement may be required to temporarily transfer to another job with equivalent pay and benefits that better accommodates that type of leave.

### **Substitution of Paid Leave for Unpaid Leave**

The Organization requires employees to use accrued paid leave while taking FMLA leave. Paid leave used at the same time as FMLA leave must be taken in compliance with the Organization's normal paid leave policies. If an employee's leave of absence does not constitute paid leave as defined in the Organization's paid leave policies, the employee cannot use accrued paid leave, but can take unpaid leave. FMLA leave is without pay when paid leave benefits are exhausted. (Employers should modify this paragraph to be consistent with their paid leave guidelines; e.g., what leave is

used first and whether the employer will allow employees to supplement workers' compensation benefits or disability paid with paid leave.)

### **Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, the employee must provide notice as soon as practicable and generally must comply with the Organization's normal call-in procedures.

Employees must provide sufficient information for the Organization to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions; the family member is unable to perform daily activities; the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the Organization if the requested leave is for a reason for which FMLA leave was previously taken or certified.

Employees also may be required to provide a certification and periodic recertification supporting the need for leave. (If not required in all cases, the employer should specify the circumstances requiring certification.) The Organization may require second and third medical opinions at the Organization's expense. Documentation confirming family relationship, adoption, or foster care may be required. If notification and appropriate certification are not provided in a timely manner, approval for leave may be denied. Continued absence after denial of leave may result in disciplinary action in accordance with the Organization's attendance guideline. Employees on leave must contact the Human Resources Manager at least two days before their first day of return.

### **The Organization's Responsibilities**

The Organization will inform employees requesting leave whether they are eligible under FMLA. If they are, the notice will specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the Organization will provide a reason for the ineligibility. The Organization will inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the Organization determines that the leave is not FMLA-protected, the Organization will notify the employee.

### **Unlawful Acts**

FMLA makes it unlawful for the Organization to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA.
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

### **Enforcement**

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against the Organization.

FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

### 3.9 Personal Leave of Absence

The City may grant ~~regular~~ full-time or part-time employees an unpaid personal leave of absence for compelling reasons subject to the following.

A. Request for Leave. Requests for personal leave must be made in writing at least two weeks before the leave is to begin, except in an emergency situation. The request must indicate: the reason for the leave, the date the leave is to commence, the expected duration of the leave, and the employee's address and telephone number while on the leave. Requests will be considered in light of expected department work requirements and business needs for the period of time of the leave, the employee's performance history and other factors. Personal leave is granted at the sole and absolute discretion of the employee's department head.

B. Return from Leave. An employee on personal leave of absence must notify the City, in writing, of his or her intention to return to work at least one week in advance. Every effort will be made to reinstate an employee returning from an approved leave of absence, on schedule, into the same or substantially similar position as the one he or she left before the leave, but this cannot be guaranteed. Failure to accept the offered position will be considered a ~~voluntary~~ termination of employment, effective immediately.<sup>45</sup>

### 3.10 Bereavement Leave

In the event of a death in an employee's immediate family, the City Administrator may authorize paid leave of up to five (5) days for full-time employees to manage family affairs and attend the funeral. Part-time employees may be granted up to (5) days of leave without pay by the department head. The employee shall submit a written request to his or her department head, who shall recommend to the City Administrator an approval, denial or reduction of the leave requested by the employee. Consideration is given to the distance to be traveled and personal demands placed on the employee in authorizing any requests for bereavement leave. "Immediate family" includes spouse, child, parent, parent in-laws, sibling, brother or sister in-law, grandparent, grandchild, stepparent, stepchild, stepbrother, stepsister, legal guardian, or a person with whom the employee shares a household in a personal relationship. Should additional leave be required, employees may use their available vacation days or sick days with the approval of the department head.

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<sup>45</sup>An employer cannot force a voluntary resignation; this action would be involuntary.

### 3.11 School Activity Leave —

~~Full-time employees may take up to six (6) hours in any one month and eighteen hours in any academic year of unpaid leave to attend school-related activities. Part-time employees are eligible for a portion of school activity leave based on the percent of a full-time schedule the employee works. Requests for leave under this section must be made at least one calendar week in advance of the academic activity, if possible, or as soon as possible after the need for leave is known. Requests for school activity leave shall include written verification of the academic activity. The City may limit an employee's ability to take school activity leave in cases of emergency or other situations that may endanger a person's health or safety or in a situation where the absence of the employee would result in a halt of service or production. Eligible employees may use accrued vacation, comp time, or time off without pay while attending these activities.~~

~~School-related activities include:~~

~~Parent-teacher conferences~~

~~Meetings related to special education services, response to intervention, dropout prevention, attendance, truancy or disciplinary issues.<sup>46</sup>~~

### 3.12 Breastfeeding and Milk Expression Breaks

In accordance with Section 4207 of the Patient Protection and Affordable Care Act under the Fair Labor Standards Act (FLSA) of 2011, and Colorado Revised Statutes 8-13.5-101, it is the policy of the City of Salida to encourage and support employees in their efforts to combine working and breastfeeding, for up to 2 years after the child's birth. Breastfeeding employees who choose to continue providing their milk for their infants after returning to work shall receive milk expression breaks, a place to express milk and staff support.<sup>47</sup>

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<sup>46</sup> Employers are no longer required to provide this type of leave; sunset 09/01/15.

<sup>47</sup> To remain inclusive, consider a more neutral statement; sample language has been added for your consideration. It is important to note that while employers may provide unpaid break time to nonexempt employees in increments of 30 minutes or more, employers cannot deduct from an exempt employee's pay for breaks. Best practice is to pay for the breaks, especially if employees get additional paid breaks for other activities (e.g., smoking).

A. Breaks. Reasonable break times (generally 15-20 minutes every 2 to 4 hours) will be provided each day to allow the employee to express breast milk for her nursing child for up to two years after the child's birth. Employees may use normal breaks and meal times, accrued vacation, sick leave or any combination thereof, or may be given unpaid break time. Employee can make up time at the beginning or end of shift if needed and approved by their supervisor.

B. Facilities. A private room (not a toilet stall or restroom) shall be available for employees to breastfeed or express milk, and the City shall make reasonable efforts to provide a location in close proximity to the work area. The room will be private and sanitary, located near a sink with running water for washing hands and rinsing out pump parts, and have an electrical outlet. Breastfeeding employees will be responsible for keeping the area clean. If employees prefer, they may also breastfeed or express milk in their own private offices, or in other comfortable locations agreed upon in consultation with the employee's supervisor. Expressed milk may be stored in a facility refrigerator if it is clearly marked with the employee's name and the date.

C. Employee Responsibilities. Employees who wish to express milk during the work period shall keep supervisors informed of their needs so that appropriate accommodations can be made to satisfy the needs of both the employee and the City. Breastfeeding employees are responsible for keeping the milk expression areas clean and for keeping the general lactation room clean for the next user. When more than one breastfeeding employees needs to use the designated lactation room, employees can use the sign-in log provided in the room the negotiate milk expression times that are most convenient or best meet their needs.

D. Other Requirements. Due to the variety of work environments, schedules and staffing needs at the different facilities of the City, other requirements may apply as appropriate. In all cases, reasonable efforts will be made to accommodate the breastfeeding employee's needs.

A private space will be provided, and time will be permitted, for nursing mothers to express milk during the workday. The time permitted typically will not exceed the normal time allowed for lunch and breaks. If additional time is needed above and beyond normal breaks/meal time, the supervisor and employee will agree upon a plan which might include the employee using annual leave/vacation time, arriving at work earlier, or leaving later.

Please contact your supervisor or Human Resources if you require accommodation

## CONDUCT AND EMPLOYEE DISCIPLINE/DISCHARGE

~~Nothing in this section constitutes an agreement of employment for a specific period of time or is intended to affect the at-will employment relationship. City employees may be terminated at any time without any procedures, cause, or notice.~~

### ~~4.1—Conduct~~

~~City employees are expected to conduct themselves in a manner which reflects positively on the City and its departments. Every employee shall be held accountable for his/her actions, including, where appropriate, imposition of disciplinary action up to and including dismissal.~~

### ~~4.2—Grounds for Discipline<sup>48</sup>~~

~~An employee whose conduct or work performance detracts from the effectiveness of service provided to the community or hinders organizational operation shall be subject to discipline, up to and including dismissal.~~

~~Many different kinds of conduct, including but not limited to the following, may result in the imposition of disciplinary measures, including, without limitation, suspension, demotion, or dismissal:~~

- ~~G. Breach of any City/Departmental policy, procedure, or rule~~
- ~~H. Insubordination by failure to follow instructions or direction of a supervisor~~
- ~~I. Inability to perform the essential duties of the job~~
- ~~J. Abusive, disrespectful, or discourteous language or conduct directed toward any other employee or a member of the public~~
- ~~K. Discrimination toward fellow employees or a member of the public~~
- ~~L. Violation of the City's discrimination or harassment policy~~
- ~~M. Violation of the City's workplace violence policy~~
- ~~N. Violation of the City's drug and alcohol policy~~
- ~~O. Soliciting or accepting any fee, gift, or item of value for personal gain, in the course of work or in connection with work~~
- ~~P. Attempting deception in work-related matters~~
- ~~Q. Absence from work without notification or authorization~~
- ~~R. Negligence or willful misconduct which endangers the health and safety of any person, or violation of safety rules/policies~~
- ~~S. Failure to properly maintain or operate City equipment or property~~
- ~~T. Inappropriate dress or appearance~~
- ~~U. Being charged with any felony or misdemeanor crime~~
- ~~V. Being charged with any traffic violation while operating a City-owned vehicle~~
- ~~W. Inadequate job performance~~

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<sup>48</sup> Lists can be problematic, as they can be read to be exhaustive—even when the employer includes a disclaimer stating otherwise. Putting any sort of conduct list in a handbook could indicate that an employee can only be fired/disciplined if they violate the conduct identified in the handbook subsequently degrading the at-will nature of the employment relationship. Sample language has been added for your consideration.

- X. ~~Theft of City Property~~
- Y. ~~Sleeping on the job~~
- Z.A. ~~Falsification of records~~

Occasionally performance or other behavior falls short of our standards and/or expectations. When this occurs, management takes action, which in its opinion, seems appropriate.

Disciplinary actions can range from a formal discussion with the employee about the matter to immediate discharge. Action taken by management in an individual case does not establish a precedent in other circumstances.

### **4.3 ~~Types of Discipline~~<sup>49</sup>**

~~An employee may be terminated as a result of a first disciplinary action; same termination need not necessarily be preceded by warnings or other less severe disciplinary actions.~~

~~Disciplinary actions may include any or all of the following steps, which may be repeated or bypassed as deemed appropriate:~~

A. ~~Counseling~~ – An immediate supervisor’s or department head’s notice to an employee that his/her behavior or performance must be improved or corrected. A counseling defines the improvement or corrective action required and informs the employee that failure to comply with the counseling may result in more severe discipline. Supervisors shall retain a record of the counseling.

B. ~~Written Reprimand~~ – A written notice to an employee that his/her performance or behavior must be improved or corrected. The notice may be given by an immediate supervisor, department head, or City Administrator, and shall be presented to the employee for review, signature, and written response at the option of the employee. Written reprimands contain a statement of the cause for the disciplinary action, improvement or corrective action required of the employee, time frames for such action, and consequences of the employee's failure to comply. Written reprimands shall be included in the employee's permanent personnel file.

C. ~~Probationary Status~~ – An employee may be placed on probationary status in writing for a specific period of time by his/her department head with the concurrence of the City Administrator. An employee on probationary status is not eligible to receive pay increases of any kind.

D. ~~Suspension~~ – An employee may be suspended by the department head, with the concurrence of the City Administrator, with or without pay for any period, depending upon the seriousness of the problem.

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<sup>49</sup> Employers should avoid reference to progressive discipline in an employee handbook. Specific procedural steps limit an employer in choosing a corrective action process considered most appropriate for each type of offense. Steps should also be avoided in supervisor manuals; however, supervisors could be given general guidelines to use in applying their own judgment in handling problems. Recommend removing.

~~E. Demotion/Reduction in Grade - An employee may be demoted or reduced in grade by the department head with the concurrence of the City Administrator.~~

~~F. Termination - An employee may be permanently removed from City service. A department head may impose a termination with the concurrence of the City Administrator.~~



# EMPLOYEE DEVELOPMENT

The City encourages and assists in the professional and technical development of all employees.

## 5.1 Required Training

The City may require that employees attend special training to stay proficient in their jobs and to meet City needs. Required training must be approved by the department head in advance of attendance. Employees will<sup>50</sup> be notified of required training in writing by their department head. The department head will make all necessary work schedule adjustments to accommodate required training. Travel to and from, and time spent at required training will be compensated in accordance with the FLSA. For required training and travel time of less than eight (8) hours duration (ten (10) hours for employees working four (4) - ten (10) hour shifts), employees will return to work to complete the eight (8) or ten (10) hour shift, make up the time during the pay period, or use appropriate leave time.

## 5.2 NIMS Training

All full-time employees must have National Incident Management System (NIMS) training and certification to comply with Homeland Security Presidential Declaration 5.

The following guidelines apply to City personnel:

All Department Staff	IS 700 and ICS 100
Supervisors	All courses above plus ICS 200
EOC Staff (Department Heads)	All courses above and ICS 300 and IS 800
Emergency Managers, Select department heads with multi-agency coordination system responsibilities	All courses above and ICS 400
Mayor and Council Members	G402

In order to stay within compliance, all new full-time employees must gain their NIMS certifications within 90 days of employment for internet based courses and within one year for courses requiring attendance. Copies of certifications are maintained in personnel files for any auditing that may occur. The Emergency Manager tracks the certifications each employee has completed.

## 5.3 Requested Training

Employees may request to attend school, seminars, workshops, or conferences if the training will be of mutual benefit to the City and the employee. Requested training must be approved by the department head and City Administrator in advance of attendance. Approval of requested training is in the discretion of the City Administrator. Travel to and from, and time spent at requested training is generally not compensable time, except that the department head may accept such time as duty time

<sup>50</sup> Refer to previous comment regarding use of definitive terms.

when it falls during a regularly scheduled shift. For requested time and travel of less than eight (8) hours duration (ten (10) hours for employees working four (4)-ten (10) hour shifts), employees will return to work to complete the eight (8) or ten (10) hour shift, make up the time during the pay period, or use appropriate leave time. Schedule adjustments to accommodate requested training are not guaranteed. Transportation, lodging, and meals will be in accordance with City policy.

- A. City payment for approved voluntary attendance at conferences, workshops, seminars or other training sessions will be based on:
  - (1) The direct benefit to the employee and the City;
  - (2) Budgetary considerations; and
  - (3) Relevance to current municipal affairs.
  
- B. When sufficient funds are available, full-time employees may be eligible for educational reimbursement. Courses must be job related and pre-approved according to your department's procedures prior to enrollment.
  
- C. All approved courses must be satisfactorily completed to be eligible for reimbursement. Reimbursement will be made for tuition, registration, fees, and laboratory fees only, at a rate equivalent to the cost of Colorado Mountain College (CMC). "Satisfactory completion of course" will mean a grade of "B-" or better, if the course is graded, or a satisfactory completion if no grade is given. Upon completion of approved course(s), the employee will submit an appropriate verification that:<sup>51</sup>
  - (1) ~~he/she~~<sup>52</sup> ~~has~~ the student has successfully completed the course;
  - (2) shows the date of completion;
  - (3) shows the final grade; and
  - (4) indicates the number of units or hours earned.

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<sup>51</sup> This level of detail is more appropriate to a separate *Tuition Reimbursement* guideline available to employees on request; recommend removing.

<sup>52</sup> Refer to previous comment regarding inclusive pronouns.

## OTHER POLICIES

### 6.1 Conflict of Interest

Employees exercising influence in connection with a City contract, purchase, payment or any other financial or monetary transaction and who have a substantial personal interest in the transaction will give seventy-two (72) hours written advance notice of the conflict to the City Administrator. Failure to disclose a conflict may result in disciplinary action, up to and including termination.

### 6.2 Personal Gain

No employee shall request, use or permit the use, whether directly or indirectly, of any publicly owned, or publicly supported equipment, vehicle, facility, labor service, supplies (new, surplus, scrap, or obsolete) or any found property for the personal convenience or the private advantage of said employee or any other person. Any employee who witnesses another employee who they believe is in violation will report the matter to their supervisor. Any employee who finds unattended property of value will contact their supervisor for instructions.

### 6.3 Gratuities

Employees will not directly or indirectly solicit/accept any gift, including but not limited to money, services, loan, travel, entertainment, hospitality or any other form if (a) it could be reasonably expected that the gift was intended to influence them in the performance of their official duties; or (b) the gift was intended to serve as a reward for any future official action on their part.

### 6.4 Employment of Related Persons

The following relatives of any officer, employee or elected official of the City who has the authority to hire, fire, or supervise employees, or of his/her spouse, will not be hired by any officer, employee, or elected official of the City of Salida without the prior consent of the City Administrator: spouse, child, parent, brother or sister, mother-in-law, father-in-law, sister-in-law, brother-in-law, or a person with whom the employee shares a household in a personal relationship. All relationships will include those arising from adoption and common-law rules. No appointing authority shall participate or vote on decisions related to hiring, retention, promotion, or determination of the salary level of a member of his or her family. Any person interviewing for employment with the City must notify their supervisor and the City Administrator of any such relationships.<sup>53</sup>

#### Employment of Relatives

The City may employ relatives of current employees except in the following situations:

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53 This guideline may be overly broad. With limited exception, Colorado law prevents employers of more than 25 employees from making hiring or term decisions based on marriage to a co-worker. To the extent that a "conflict of interest" outside of these circumstances, it would violate the Colorado Anti-Discrimination Act to take any sort of adverse action. Sample language has been added for your consideration.

- Relatives would be in a position to supervise another relative.
- Relatives have access to confidential information including payroll and personnel records.
- Relatives audit, verify, receive, or are entrusted with money handled by the other relative.

In cases of marriage or the formation of a civil union between two employees, if the above guidelines apply, one must transfer.

These guidelines apply to all categories of employment, including full-time, part-time, and temporary classifications. They also apply to all relatives and individuals who are not legally related, but who reside with another employee.

### **Romantic Relationships**<sup>54</sup>

If a romantic relationship develops between two people at work where one is in a supervisory position over the other, the relationship interferes with either employee's work duties; both parties are responsible for reporting the relationship to the Human Resource Manager. Such relationships can be disruptive to the work environment, create a conflict of interest or the appearance of a conflict of interest, and lead to complaints of favoritism, discrimination, or sexual harassment. Steps may be taken to change the work relationship to avoid any conflict of interest.

## **6.5 Outside Employment**

No employee may engage in additional employment which, in the opinion of the employee's supervisor, impairs the proper and effective performance of official duties, which results in a conflict of interest, or which would adversely affect the City. The City does not prohibit employees from having outside employment unless the outside employment creates a conflict of interest with the employee's responsibilities to the City of Salida. Employees are reminded; however, that all employees will be judged by performance standards established by the City and will be subject to the City's scheduling demands, regardless of any existing outside work requirements. Employees holding employment outside of the City must fill out an Outside Employment Authorization Form<sup>55</sup>, which is must be signed by the employee's supervisor and the City Administrator.

Employees involved in or contemplating outside work should discuss the issue with their supervisor. Despite any outside employment or business venture, employees are still required to perform their duties with the City. Any conflicts with a second job will not be acceptable excuses for not meeting expectations or attendance requirements, including any overtime work.

Any outside work must not create or appear to create a conflict with the City's business interests. Employees are not permitted to use any of the City's equipment or paid time off benefits for purposes related to an outside job or receive any income or material gain from individuals outside the City for

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<sup>54</sup> Many public employers also seek to set expectations around dating in the workplace; sample language has been added for your consideration.

<sup>55</sup> Seeking authorization for outside employment may be read to interfere with lawful off-duty conduct; sample language has been added for your consideration.

materials produced or services rendered in the performance of their City position. Employees cannot receive any material gain for use of City tools, equipment, material or facilities.

## 6.6 Political Activity

Political beliefs, activities and affiliation are a private matter to the employees of the City of Salida. No employee or applicant will be required to divulge political beliefs as a requirement of employment, nor participate in, nor make or withhold contributions to, political parties or groups. At the same time, employees will not engage in encouraging candidates to run or openly and actively support any political candidate or issue during scheduled work hours. All City employees are subject to and will comply with the provisions of the Colorado Campaign Reform Act. The following types of political activity are restricted, but are not intended to restrict an employee's freedom to express opinions or exercise his/her/their<sup>56</sup> right to vote while off-duty.

- 1 No employee, either full-time or part-time, shall campaign for or against or publicly support or oppose any City Council or other candidate while on duty.
- 2 No City employee, either full-time or part-time, while on duty or in a uniform which identifies him/her as an employee of the City shall:
  - Canvass on behalf of any candidate, political party, or political issue,
  - Display any political media whether it is campaign related or supportive of an elected official's view,
  - Circulate any petition,
  - Participate in petitioning activities focused on public service issues presented by the general public (non-City Officials), or
  - Serve as a City election judge ~~or clerk~~.
3. No employee shall place or allow to be placed any political media on a City vehicle.
4. Any active, full-time or part-time regular employee who is announcing candidacy for an elected office may choose to continue his/her/their<sup>57</sup> regular work schedule with the City if no interferences or conflicts of interest are present. If and when a potential conflict of interest or interference is present, the employee will be asked to take a leave of absence, to become effective with the date the candidacy is officially registered. This leave of absence will continue during the total campaign period unless candidacy is withdrawn. After the election, the successful candidate shall be asked to resign his/her/their position with the City if the elected office has any dealing whatsoever, with the City.
5. Department heads shall remain publicly neutral on all City elections for public office.

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<sup>56</sup> Refer to previous comment regarding inclusive pronouns

<sup>57</sup> Refer to previous comment regarding inclusive pronouns.

## 6.7 City Property

Employees who use or have City property in their possession are expected to treat it with the same care as they would their own property. All City tools and equipment are to be returned in good condition, ordinary wear and tear excepted. Property lost, damaged, or destroyed due to the employee's willful act or carelessness, will be considered a legal obligation and indebtedness of the employee and will be replaced at the employee's expense.<sup>58</sup>

Whether or not performed on the City's premises, work which employees perform and are paid for by the City is the property of the City of Salida. This includes inventions, works of authorship, improvements, designs, developments, and discoveries that relate in any manner to the present or prospective activities or business of the City.

Any City property issued to employees, such as keys, policy manuals, tools, firearms, or uniforms, must be returned at the time of termination or resignation, or whenever requested by the supervisor. Employees are responsible to pay for any lost or damaged items.<sup>59</sup> As a condition of employment with the City, all employees agree that the value of any property issued and not returned will be considered a valid legal obligation and indebtedness of the non-returning employee and may be deducted from the employee's final paycheck.<sup>60</sup>

## 6.8 Operation of City or Private Vehicles

A. Valid Driver's License. Employees who do not have a valid Colorado driver's license or who are not insured against liability for driving, as required by state laws, are not authorized to drive any vehicle during the course of performing work duties or scope of their employment with the City. An employee's driving record must be acceptable to the City's insurance carrier or the employee is not deemed authorized to drive in the course or scope of employment.

B. Change in Driver Status. If an employee's job duties include driving, then any change in the employee's driver's license status, driving record or insurance coverage must be reported in writing by the employee to his or her department head by the next business day.

C. Safety. Safe and lawful driving practices must be used by employees at all times while driving a City-owned vehicle or personal vehicle on City business. Seat belts must be worn at all times while traveling in a City-owned vehicle or a personal vehicle on City business. It is the employee-driver's responsibility to ensure that all passengers buckle-up before beginning to operate the vehicle.

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<sup>58</sup> The City is not subject to the Colorado Wage Act, which requires written authorization to deduct most debts; however, be sure nothing in your practice authorizes a deduction below the minimum wage applicable under the Fair Labor Standards Act (FLSA). In addition, this only applies to nonexempt employees as it may constitute an improper deduction for exempt staff.

<sup>59</sup> Refer to previous comment regarding deductions.

<sup>60</sup> Refer to previous comment regarding deductions.

A Motor Vehicle Record (MVR) for prospective and current employees whose job duties require them to routinely operate a City vehicle will be obtained and reviewed in accordance with the City's current operating procedures.

D. Alcohol. Employees are not allowed to drink alcohol while on City business. Open containers of alcohol are not allowed in vehicles being used for City business.

E. Liability. Property damage to vehicles that occurs while an employee is driving the vehicle or is in control of the vehicle is the employee's responsibility. The City has no obligation to pay for damage to an employee's vehicle that occurs while the vehicle is on the City's premises or while it is being used for job-related purposes unless the damage is caused by the City's negligence and is not due to any negligence by the employee.

F. Accidents during travel. Employees who are involved in an accident while traveling on business must promptly report the incident to their immediate department head. Vehicles owned, leased, or rented by the City may not be used for personal use without prior approval.

## 6.9 Alcohol and Drug-Free Workplace<sup>61</sup>

~~A. — A. — Purpose. The use of controlled substances and the misuse of alcohol increase the risk of accidents and jeopardize the safe work environment for employees, customers and the public in general. The City's goal is to provide a safe and healthy workplace. Therefore, the City is committed to an alcohol and drug-free workplace to promote the safety and well-being of its employees, customers and the public affected by the conduct of employees during the course and scope of their employment.~~

~~The City is committed to a safe, healthy, and productive work environment for all employees that is free from the effects of substance abuse. Abuse of alcohol, drugs, and controlled substances impairs employee judgment, resulting in increased safety risks, injuries, and faulty decision making. This includes working after the apparent use of marijuana, regardless of marijuana's legal status. Furthermore, working after the use of alcohol, a controlled substance or abuse of any other substance is prohibited.~~

~~In accordance with the Drug-Free Workplace Act of 1988, the City prohibits the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance during work time, on City premises, or other work sites. Any employee who is convicted, or pleads guilty or no contest under a criminal drug statute for a violation occurring in the workplace must notify the City within five days of such conviction or plea. Testing is an important element in the City's efforts to ensure a safe and productive work environment. The City has issued a separate statement for this testing program. Please refer to this separate statement, the Human Resources Department, or your supervisor if you have specific questions.~~

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<sup>61</sup> ~~The handbook should only discuss the prohibition of alcohol/drug use and should apprise employees that testing will be conducted; details of the testing program are separate. Sample language has been added for your consideration.~~

B. Alcohol and Controlled Substances Prohibited. The following conduct by employees is prohibited on any premises owned, leased or used by the City for performing the City's services, or any place while an employee is performing services for the City: 1) alcohol possession or use; 2) the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance; 3) having detectable amounts of alcohol or controlled substances in the employee's system or; 4) smelling of alcohol on the job, regardless whether the employee is under the influence.

1. "Drugs" or "controlled substances" means a controlled substance listed in Schedules I through V of 21 U.S.C. 812 and as further defined by federal regulations (21 CFR Section 1300.11 through 1300.15). This list includes but is not limited to marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP). It does not include over-the-counter medications taken in accordance with the manufacturer's instructions, or drugs prescribed by a physician for the employee when taken in the manner, combination and quantity prescribed, unless possession or use is illegal despite a prescription. Employees who are using over-the-counter or medically prescribed drugs that could adversely affect their ability to perform work in a safe manner must notify their department head prior to starting work. The employee may be required to provide a physician's certification that it is safe for the employee to perform the essential job functions while using the medications as a condition of continuing to work.
2. Any employee who is convicted of a drug-related crime for any violation occurring within the course or scope of employment by the City, must notify the City of the conviction no later than five (5) days after such conviction. 'Conviction' means a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violation of federal or state criminal drug statutes. Notice of such conviction should be given to the City Administrator.
3. Sanctions will be imposed on any employee so convicted. Within thirty (30) days after receiving notice of the conviction, the City will take appropriate disciplinary action against the employee, up to and including termination.
4. Sanctions may be imposed if the City has reasonable suspicion of a violation of this policy, regardless of whether the employee is convicted or criminally prosecuted.

C. Basis for Testing. Testing will be required as a condition of employment under the following circumstances:

1. Post-Offer of Employment. Offers of employment may be contingent upon the new employee submitting to and passing a drug test. Also, existing employees may be required to pass a drug test as a condition of an offer of a specific job or project assignment.
2. Reasonable Suspicion Testing. If the employee's supervisor has reasonable suspicion that an employee is in violation of this policy, the employee may be required to submit



to testing for alcohol and/or controlled substances. "Reasonable suspicion" is defined as facts and circumstances that would lead a reasonable person to believe that another individual is under the influence of drugs, alcohol or controlled substances. Some of the circumstances that might provoke reasonable suspicion testing are evidence of repeated errors on the job, sleeping on the job, slurred speech, uncharacteristic appearance or behavior, or unsatisfactory time or attendance patterns, if coupled with specific events that indicate probable drug/alcohol use. Reasonable suspicion for testing may also exist if other individuals have first-hand knowledge relating to an employee's violation of this policy and report this to the City.

3. Post-Accident Testing. An employee in a safety sensitive position who is involved in an on-the-job accident may be subject to an alcohol and drug test if the employee's own conduct could possibly be a contributing cause of the accident or injury. In addition, any employee who is involved in a serious on-the-job accident may be subject to an alcohol and drug test.
  - a) Although testing should never delay necessary and immediate medical treatment, testing must be performed as soon as possible following an accident. The employee must submit to an alcohol and drug test within 2 hours following an accident. If testing cannot be completed within the 2 hour time allowed, the employee must provide the City Administrator, or his or her designee, with a written explanation as to why the employee did not comply with this requirement.
  - b) Any employee whose injuries prevent him or her from providing a specimen in a timely manner shall, as soon as able, provide to the City the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any controlled substances in the Employee's system and the alcohol concentration level.
4. Return to Duty and Follow-Up Testing. An employee who has failed a drug/alcohol test will likely be terminated for a first offense. At the sole discretion of employer, the employee may be allowed to return to duty or be rehired after the employee submits to return-to-duty testing and tests negative for alcohol and controlled substances. Any employee who tested positive during the past 12 months is subject to unannounced, follow-up testing.
5. Random Testing. All employees whose position requires a Commercial Driver's License (CDL) are subject to random testing for alcohol and controlled substances during work hours. Random testing is not based on reasonable suspicion of use.
- D. Consequence of Violation. Any violation of this policy will likely result in immediate termination.
- E. Refusal to Submit to Testing. The following behavior constitutes a 'refusal' to take a test:

1. Express refusal to take the test.
2. Failure to provide sufficient quantities of breath or urine to be tested without a valid medical explanation for the failure, or engaging in conduct that clearly obstructs the testing.
3. Tampering with, or attempting to adulterate the specimen or collection procedure.
4. Not reporting to the collection site in the time allotted.
5. Leaving the scene of an accident without a valid reason and not submitting to the test as required in this policy.

Refusal to submit to mandated testing is considered a violation of this policy and the consequences will be the same as though there has been a positive test result.

F. Testing Facility. Testing will generally be by urinalysis. Results of blood tests or Breathalyzer (for alcohol) may also be relied upon by the City. The testing will be performed by an approved lab and administered by a qualified testing facility.

G. Employment at will. Nothing in this policy changes the fact that all employment with the City is at will and can be terminated at any time by the employee or the City with or without cause or prior notice. Nothing in this policy requires the City to test before terminating an employee for violation of this policy.

## 6.10 ~~Personal Visits, Phone Calls, Mail and Email~~

~~Employees are expected to remain engaged in the performance of the duties of their job during their scheduled work hours.~~

~~Voice mail, email, and Internet usage assigned to an employee's computer or telephone extensions are solely for the purpose of conducting City business. Some job responsibilities at the City require access to the Internet and the use of software in addition to the Microsoft Office suite of products. Only people appropriately authorized, for City purposes, may use the Internet or access additional software. Internet use brings the possibility of breaches to the security of confidential City information. Internet use also creates the possibility of contamination to the City's system via viruses or spyware. Spyware allows unauthorized people, outside the City, potential access to City passwords and other confidential information. Internet usage may be monitored and/or blocked by the City.~~

~~Personal phone calls using either City-owned telephones or personal cellular phones shall be infrequent and limited to three (3) minutes in duration<sup>62</sup> or emergencies. Long-distance charges for personal calls shall never be charged to the City. Excessive personal use of telephones for calls, messaging or other applications will not be tolerated and will lead to disciplinary action, up to and including termination.~~

~~City facilities are not to be used as a personal mailing address, although occasional deliveries are allowable.~~

## 6.11 ~~Electronic Media Access Policy~~

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<sup>62</sup> Is this practice enforced 100% across the organization?

~~— A. — Internet Use. — Internet access is provided by the City to assist employees in obtaining work-related data and technology. Internet usage is intended for job-related activities only. All Internet data that is composed, transmitted, or received via the City's computer communications systems is considered to be property of the City and, as such, may be subject to disclosure to law enforcement or other third parties. Consequently, employees should always ensure that the business information contained in Internet e-mail messages and other transmissions is accurate, appropriate, ethical, and lawful. Data that is composed, transmitted, accessed, or received via the Internet, including the use of e-mail, must not contain content that could be considered discriminatory, offensive, obscene, threatening, harassing, intimidating, or disruptive to any employee or other person. Examples of unacceptable content may include, but are not limited to, sexual comments or images, racial slurs, gender-specific comments, or any other comments or images that could reasonably offend someone on the basis of race, age, sex, religious or political beliefs, national origin, disability, sexual orientation, or any other characteristic protected by law. E-mail may not be used to solicit others for commercial ventures, religious or political causes, outside organizations, or other non-business matters. Internet users should take the necessary anti-virus precautions before downloading or copying any file from the Internet. All downloaded files are to be checked for viruses; all compressed files are to be checked before and after decompression.~~

~~— B. — Right to Monitor. — The equipment, services, and technology provided to access the Internet remain at all times the property of the City. As such, the City reserves the right to monitor Internet traffic, and retrieve and read any data composed, sent, or received through our online connections and stored in our computer systems. The City Administrator shall manage, refer to the City Clerk, or delegate to the Deputy City Clerk the monitoring or review of Internet traffic and data composed, sent, or received through the City's computer systems and servers for the purposes of employment and personnel matters, CORA request responses, and/or to implement the City's Fraud Detection & Prevention Policy. Employees should not use a password, access a file, or retrieve any stored communication without authorization.~~

~~—— C. — Copyright Violations/Use of Software. The unauthorized use, installation, copying, or distribution of copyrighted, trademarked, or patented material on the Internet is expressly prohibited. As a general rule, if an employee did not create material, does not own the rights to it, or has not gotten authorization for its use, it should not be put on the Internet. Employees are also responsible for ensuring that the person sending any material over the Internet has the appropriate distribution rights. Employees may only use software on local area networks or on multiple machines according to the software license agreement. The City prohibits the illegal duplication of software and its related documentation.~~

~~—— D. — Sample of Prohibited uses of Electronic Services. Abuse of the Internet access provided by the City in violation of law or the City's policies will result in disciplinary action, up to and including termination of employment. Employees may also be held personally liable for any violations of this policy. The following behaviors are examples of previously stated or additional actions and activities that, if they are not for job-related purposes (e.g., a law enforcement investigation), are prohibited and can result in disciplinary action:<sup>63</sup>~~

~~Posting or sending (via the Internet, cell phones, etc.) discriminatory, harassing, inappropriate or threatening messages or images~~

~~Using the organization's time and resources for personal gain~~

~~Stealing, using, or disclosing someone else's code or password without authorization~~

~~Copying, pirating, or downloading software and electronic files without permission~~

~~Sending or posting confidential material, trade secrets, or proprietary information outside of the organization~~

~~Violating copyright law~~

~~Engaging in unauthorized transactions that may incur a cost to the organization or initiate unwanted Internet services and transmissions~~

~~Sending or posting messages or material that could damage the organization's image or reputation~~

~~Participating in the viewing or exchange of pornography or obscene materials~~

~~Sending or posting messages that defame or slander other individuals~~

~~Attempting to break into the computer system of another organization or person~~

~~Refusing to cooperate with a security investigation~~

~~Sending or posting chain letters, solicitations, or advertisements not related to business purposes or activities~~

~~Internet gambling~~

~~Jeopardizing the security of the organization's electronic communications systems~~

~~Passing off personal views as representing those of the organization~~

~~Sending anonymous e-mail messages~~

~~Accessing or logging on to any my space page, dating service website, or any site that posts blogs (unless specifically work-related)~~

~~Engaging in any other illegal activities~~

~~Reporting. Employees should notify their immediate department head, the City Administrator, or any member of management upon learning of violations of this policy. Employees who violate this policy will be subject to disciplinary action, up to and including termination of employment.<sup>64</sup>~~

### Communication Systems

The Organization's computer network, access to Internet, e-mail, and voice mail systems are business tools intended for employees to use in performing their job duties. Therefore, all documents and files are the property of the Organization. All information regarding access to the Organization's computer resources, such as user identifications, modem phone numbers, access codes, and passwords are confidential Organization information and may not be disclosed to non-Organization personnel.

All computer files, documents, and software created or stored on the Organization's computer systems are subject to review and inspection at any time. Employees should not assume that any such information is confidential, including e-mail either sent or received.

Computer equipment should not be removed from the Organization premises without written approval from a department head. Upon separation of employment, all communication tools should be returned to the Organization.

### Personal Use of the Internet

Some employees need to access information through the Internet in order to do their job. Use of the Internet is for business purposes during the time employees are working. Personal use of the Internet should not be on business time, but rather before or after work or during breaks or lunch period. Regardless, the Organization prohibits the display, transmittal, or downloading of material that is in violation of Organization guidelines or otherwise is offensive, pornographic, obscene, profane, discriminatory, harassing, insulting, derogatory, or otherwise unlawful at any time.

### Software and Copyright

The Organization fully supports copyright laws. Employees may not copy or use any software, images, music, or other intellectual property (such as books or videos) unless the employee has the legal right to do so. Employees must comply with all licenses regulating the use of any software and may not disseminate or copy any such software without authorization. Employees may not use unauthorized copies of software on personal computers housed in Organization facilities.

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<sup>63</sup> Refer to previous comment regarding lists.

<sup>64</sup> Sample language has been added for your consideration.

### Unauthorized Use

Employees may not attempt to gain access to another employee's personal file of e-mail messages or send a message under someone else's name without the latter's express permission. Employees are strictly prohibited from using the Organization communication systems in ways that management deems to be inappropriate. If you have any question whether your behavior would constitute unauthorized use, contact your immediate supervisor before engaging in such conduct.

### E-mail

E-mail is to be used for business purposes. While personal e-mail is permitted, it is to be kept to a minimum. Personal e-mail should be brief and sent or received as seldom as possible. The Organization prohibits the display, transmittal, or downloading of material that is offensive, pornographic, obscene, profane, discriminatory, harassing, insulting, derogatory, or otherwise unlawful at any time. No one may solicit, promote, or advertise any outside organization, product, or service through the use of e-mail or anywhere else on Organization premises at any time. Management may monitor e-mail from time to time. Employees should be aware that emails might be public records and subject to public disclosure.

Employees are prohibited from unauthorized use of encryption keys or the passwords of other employees to gain access to another employee's e-mail messages.

### Voice Mail

The Organization voice mail system is intended for transmitting business-related information. Although the Organization does not monitor voice messages as a routine matter, the Organization reserves the right to access and disclose all messages sent over the voice mail systems for any purpose. Employees must use judgment and discretion in their personal use of voice mail and must keep such use to a minimum.

### Telephones/Cell Phones/Mobile Devices

Employee work hours are valuable and should be used for business. Excessive personal phone calls can significantly disrupt business operations. Employees should use their break or lunch period for personal phone calls.

Confidential information should not be discussed on a cell phone or mobile device. Phones and mobile devices with cameras should not be used in a way that violates other Organization guidelines such as, but not limited to, EEO/Sexual Harassment and Confidential Information.

For safety reasons, employees should avoid the use of cell phones and mobile devices to make calls while driving. Employees must park whenever they need to use a cell phone. Generally, stopping on the shoulder of the road is not acceptable. Employees are prohibited from using a cell phone or other device to text while operating a motor vehicle. Texting is permitted only where the vehicle is at rest in a shoulder lane or lawfully parked.

The Organization telephone lines should not be used for personal long distance calls.

### Postage

The use of City postage for personal correspondence is not permitted.

## 6.12 Residency Requirements

City employees need not reside within the limits of the City, with the exception of the following:

City Administrator. The City Administrator is required to be a resident of the City within 30 days of his/her first day of employment.

Emergency Response Team. Key employees who are part of the City's emergency response team are required to respond to an emergency within thirty-five (35) minutes travel time by passenger vehicle from where they live to their primary work location as timed during normal traffic conditions using a commonly accepted mapping application (eg. Mapquest, Google Maps, Traveltime, etc.). Employees may request an exception to increase such travel time up to 45 minutes from the City Administrator who shall make a determination based upon the particular facts and circumstances of each situation.

The City's emergency response team includes employees who hold positions of responsibility within the Fire, Police and Public Works Departments and excludes administrative assistants and the code enforcement officer. Employees living outside this response time area when hired must relocate to a location meeting the requirements within six months of their starting date. The City Administrator may approve one three-month extension due to special circumstances.

Any employees hired before adoption of this manual are not required to move, but cannot move further away from the City if they currently reside outside the distance outlined in this policy.

## 6.13 Open Door Policy<sup>65</sup>

This policy outlines a procedure for employees to report actions reasonably believed to violate a law, or regulation or to constitute fraudulent accounting or other unethical practices. It is intended to encourage employee to report such actions should they ever suspect or witness an actual occurrence of illegal, unethical or inappropriate behaviors or practices without fearing retribution.

A. Employees should promptly report the suspected or actual event to his/her/their<sup>66</sup> immediate supervisor. If the employee is uncomfortable or otherwise reluctant to make the report to his/her supervisor, then the employee should report the event to the next highest level of management or to the Police Chief, City Administrator, Finance Director or Mayor.

B. The employee can report anonymously.

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<sup>65</sup> 'Open door' is intended to encourage transparency with employees in regards to job related concerns; the idea being to resolve issues internally whenever possible. This guideline is oriented more towards ethics concerns with practice(s). Best practice is to separate ethics from problem solving; sample language has been added for your consideration.

<sup>66</sup> Refer to previous comment regarding inclusive pronouns.



C. The employee shall receive no retaliation or retribution for a report that was provided in good faith – in other words, it was not done primarily with malice to damage another employee, official or the City.

D. The employee who makes a report that is not done in good faith is subject to discipline, including termination or other legal means to protect the reputation of the organization and members of its governing body and staff.

E. Anyone who retaliates against the employee who reported an event in good faith will be subject to discipline, including termination.

F. The supervisor, member of management or elected official who receives a report of illegal, unethical or inappropriate behaviors or practices must promptly act to investigate and/or resolve the issue.

G. The employee who made the report (unless done so anonymously) shall receive a report promptly following the completion of the investigation and disposition/resolution of the issue.

H. If the investigation of a report, that was done in good faith and investigated by internal personnel, is not to the employee's satisfaction, then he/she has the right to report the event to the appropriate legal or investigative agency.

I. The identity of the employee, if known, shall remain confidential to those persons directly involved in applying this policy, unless the issue requires investigation by law enforcement, in which case members of the organization are subject to subpoena.

### **Ethics**

Employees at the City must be committed to the highest ethical standards in the execution of their duties and responsibilities. If you feel you are being asked to violate City guidelines, address your concerns with your supervisor or a member of the executive team.

You are expected to report perceived ethical violations. The City expects employees to make a timely report to enable the organization to investigate and resolve any behavior that may be in violation. Report the incident to your supervisor or a member of the executive team. Your report will be kept as confidential as practicable. The City prohibits retaliation against an employee for filing a report or for assisting in an investigation.

### **Job Related Problems**

Employees who disagree or are dissatisfied with an Organization practice should promptly discuss the matter with their immediate supervisor, where appropriate. Normally, this discussion should be held within three to five days of the incident, or in a timely manner. Discussions held in a timely manner will enhance our ability to resolve concerns while they are fresh in everyone's mind. The majority of misunderstandings can be resolved at this level.

If the solution offered is not satisfactory, or if it is inappropriate to go to the supervisor, then employees are encouraged to take the problem to \_\_\_\_\_ (specify person by job title or department). If the problem still cannot be resolved, employees may submit a written complaint to \_\_\_\_\_ (specify person by job title or department) for review and final decision about the situation. Also see the EEO/Harassment Complaint Procedure on page \_\_\_\_\_.

### Smoking<sup>67</sup>

Smoking is prohibited within all areas of City buildings and in City vehicles. Smoking includes the use of any tobacco product, as well as vaporizers, vape liquids, electronic or e-cigarettes, and electronic or vapor smoking accessories. Employees may smoke in designated outdoor areas. This restriction applies to all employees and visitors, at all times, including non-business hours.

### Data Disposal Policy<sup>68</sup>

During the course of your employment, the City will collect certain information that is classified as “personal identifying information,” or PII, under applicable laws. Such information may include, but is not limited to:

- Your first and last name or initials;
- Username(s) and password(s);
- Social security number;
- Driver license or other identification card number;
- Medical documentation;
- Biometric data;
- And more.

The City may keep these records in paper and/or electronic format.

When such documentation is no longer needed, pursuant to records retention requirements and best practices, the City will either (a) destroy the records or (b) arrange for their destruction, e.g. by shredding, erasing, or otherwise modifying the personal identifying information in such a manner as to render it unreadable or indecipherable through any means.

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<sup>67</sup> Colorado’s Clean Air Act and various local smoking ordinances restrict smoking in the workplace.

<sup>68</sup> Beginning September 1, 2018, Colorado law requires organizations to implement certain policies with respect to consumer data privacy.

## APPROVALS<sup>69</sup>

Approvals:

Date	Name	Signature
05/04/12	Department Head	/s/ Jan Schmidt
05/08/12	City Administrator	/s/ Dara MacDonald

Revision History:

Version	Date Revised	Reason for Change
2014.01	05/21/2014	To <del>change benefits eligibility for compliance with Patient Protection and Affordable Care Act, to update list of expanded benefit offerings and eliminate sick donation policy due to disability plans effective July 1, 2014. Changes made to §2.1(A), 3.1(A-C), 3.5(K).</del>
2014.02	12/16/2014	To <del>make the 457(s) deferred salary plan available to Special Full-time and Part-time Benefitted employees, reduce the sick leave carry-over due to disability plans, modify bereavement leave, and add an open door policy. Changes were made to §3.1(B, C), 3.3 (A, B), 3.5 (A, B), 3.10 and a new §6.13 created.</del>
2015.01	07/21/2015	To <del>add a Breastfeeding and Milk Expression Break Policy as section 3.12, add a timeframe for emergency response employees to relocate in section 6.12, and revise the Acknowledgment Form.</del>
2016.01	03/02/2016	Revised <del>sections 2.4, 2.5 and 3.5 to revise standby compensation, overtime compensation, definition of the workweek and paid holidays.</del>
2016.02	05/03/2016	Revised <del>section 6.12 to increase response time.</del>

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<sup>69</sup> Refer to previous comment regarding document histories; recommend removing.

## Acknowledgment Form<sup>70</sup>

### Employee Copy

~~Please sign and return the following acknowledgment form to the Human Resources representative within five (5) days of your receipt of this manual.~~

~~I have received a copy of the City of Salida (the "City") Personnel Manual which outlines the procedures of my employment with the City. I have read and understand the information in it and agree to abide by the all provisions contained therein during my employment.~~

~~I also understand that all provisions as presented may be subject to change or revocation at the sole option of the City at any time.~~

~~\_\_\_\_\_ I acknowledge that the City of Salida offers certain health and retirement plans to employees. I may choose whether or not I wish to participate and, if I elect to participate, I will complete and deliver to Human Resources at City Hall the appropriate plan enrollment form(s).~~

~~If I have any questions, I will have them clarified by the City Administrator or his/her designee.~~

~~I understand that I am an employee-at-will. Nothing in this manual, or otherwise, is an agreement to employment for any term or an agreement of any kind.~~

~~READ, UNDERSTOOD AND AGREED:~~

\_\_\_\_\_  
Employee's Printed Name

\_\_\_\_\_  
Signature of Employee \_\_\_\_\_ Date

<sup>70</sup> The receipt should mirror the disclaimer notice at the front of the handbook and appear in **CAPITAL, BOLD** letters on the last page of the handbook. Sample language has been added for your consideration.



## Acknowledgment Form<sup>72</sup>

### City Copy

~~Please sign and return the following acknowledgment form to the Human Resources representative within five (5) days of your receipt of this manual.~~

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~~I understand that I am an employee at will. Nothing in this manual, or otherwise, is an agreement to employment for any term or an agreement of any kind.~~

~~READ, UNDERSTOOD AND AGREED:~~

\_\_\_\_\_  
\_\_\_\_\_  
Employee's Printed Name

\_\_\_\_\_  
\_\_\_\_\_  
Signature of Employee \_\_\_\_\_ Date

<sup>72</sup> It is not necessary to have two signed acknowledgments; the original signature remains with the City in the employee's personnel record with a copy to the employee.



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## CITY COUNCIL WORK SESSION

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**MEETING DATE:** November 18, 2019  
**AGENDA ITEM:** 2020 Budget Open Items - Utilities  
**FROM:** Aimee Tihonovich, Finance Director

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This week's budget discussion looks at the budgets for the Water and Wastewater funds.

The attachment is a list of discussion items related to the 2020 budget for the Utilities. The list shows either significant differences between 2020 and 2019. Please read through the lists and plan on addressing any questions or requested changes at the meeting.

The charts (also attached) support the water and wastewater rate increase discussion.

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**City of Salida**  
**2020 Proposed Budget**  
**Open Items - Utility Funds- November 18, 2019 Work Session**

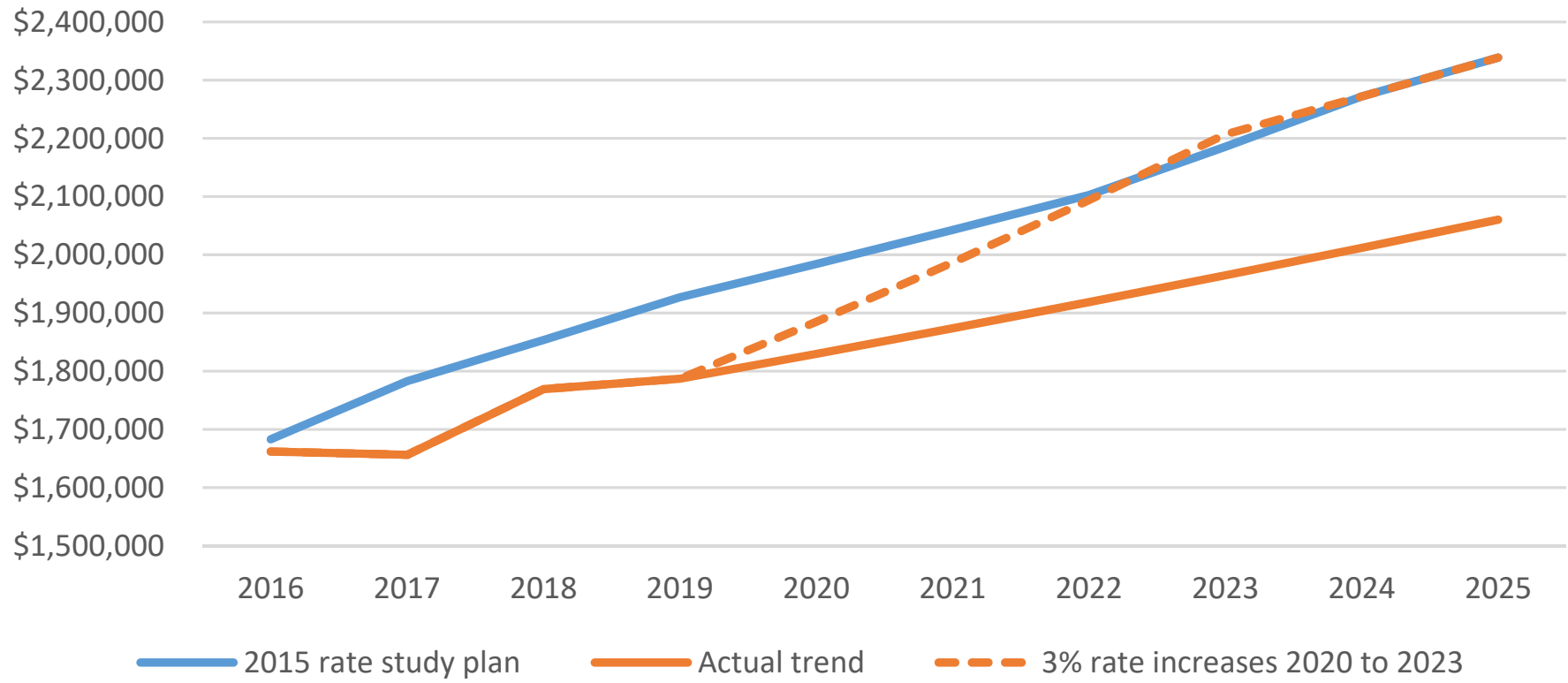
Proposed use of Fund Balance (Combined Water and Wastewater Funds) \$ (894,720)

	<u>Decision Description</u>	<u>Proposed</u>	<u>\$ Change from Proposed</u>	<u>Adjusted Use of Fund Balance</u>
1	The fee recommendations of a 2015 rate study were not implemented. Fees were increased 2% over the 2015 rates in the year 2016, no further fee increases have been implemented. The study recommended water rate increases of 5% for 2016 and 2017 and 3% for 2018. For wastewater rates, an increase of 9% for 2016 and 8% each year after that for 4 years was recommended. The attached chart shows how we can catch up, it is recommended we implement a 3% increase in water rates and a 4.5% increase for sewer.	(This is not in the published version of the budget)	105,800	\$ (788,920)
2	The gallery transmission main line supplies approximately 1/2 the of the city water supply and is nearing the end of its useful life. A replacement is recommended, SRF funding is anticipated (a state sponsored low interest funding program).	\$(1,750,000) to be financed over 10 years.		\$ (788,920)
3	Water line replacements associated with street projects, i.e. Blake Street	(400,000)		\$ (788,920)
4	Purchase jet/vac sewer cleaning truck to replace aging/obsolete sewer rodding machine for \$400,000. Will pay for itself over time with reduced contract services. Budget plans use of lease/purchase financing mechanism for an annual budgeted cost of \$80,000	(80,000)		\$ (788,920)
5	Sewer reconstruction work based on condition assessment and life cycle analysis (this is an annual upkeep cost). This year, work is concentrated in the Mesa area.	(350,000)		\$ (788,920)
6	A variety of plant upgrades, modifications, equipment replacements and maintenance projects totalling shown amount (building, equipment, pumps, SCADA and other routine repairs and replacements.	(225,500)		\$ (788,920)
7	1995 dump truck due for replacement (#14)	(120,000)		\$ (788,920)

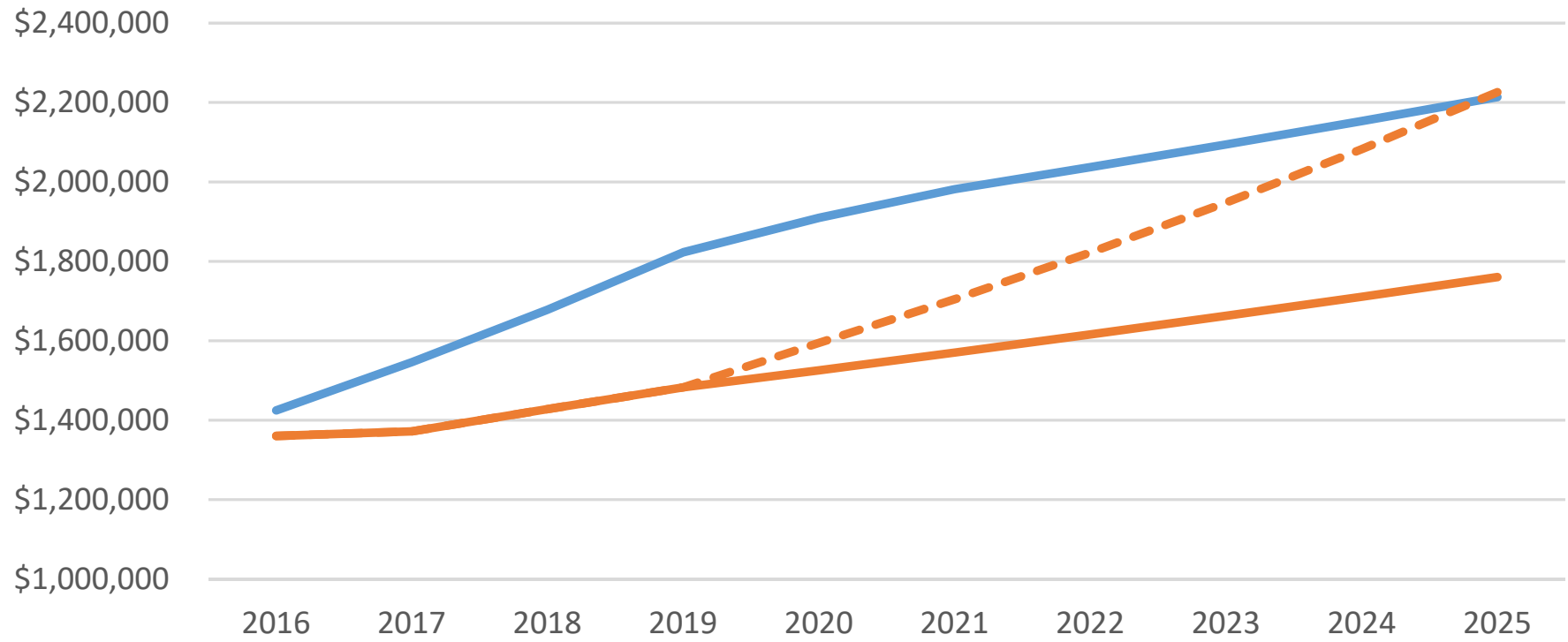


<u>Decision Description</u>		<u>Proposed</u>	<u>\$ Change from Proposed</u>	<u>Adjusted Use of Fund Balance</u>
8	Bobcat and biosolids turner replacements used daily for biosolids.	(78,000)		\$ (788,920)
9	Continue the program started in 2016 to replace old Sensus water meters, upgrading to 'Badger Radio Read' meters (better efficiency and accuracy)	(70,000)		\$ (788,920)
10	5 year cycle for cleaning and maintaining anaerobic digester, replace gate valves.	(70,000)		\$ (788,920)
11	Vehicle purchase for administrative use.	(35,000)		\$ (788,920)
12	Raw water and planning studies.	(50,000)		\$ (788,920)
13	Rate study similar to 2015 study, best practice is to repeat every 5 years.	(40,000)		\$ (788,920)

# Water Service Rates



# WasteWater Service Rates



— 2015 rate study plan    — Actual trend    - - - 4.5% rate increase 2020 on