

RESOLUTION 1294

A RESOLUTION AMENDING THE CITY OF LANDER POLICY AND PROCEDURE MANUAL, WORKERS COMPENSATION

WHEREAS, pursuant to Section 12-3-6 of the Lander Municipal Code, the Mayor, subject to the approval of the Council, may establish regulations and policies concerning all city personnel; and

WHEREAS, the City of Lander has reviewed the proposed City of Lander Personnel Policy and found a need to amend the section of the policy pertaining to Workers Compensation; and

WHEREAS, the City employees will be given a copy of the Workers Compensation section in the City of Lander Personnel Policy to read:

Workers' Compensation

The City of Lander provides workers compensation insurance to compensate for any illness or injury an employee might suffer while working on company premises, traveling on official company business, or attending an activity officially sponsored by the City of Lander. If you become ill or injured, please get medical attention at once. Employees unable to work during this time period due to injury or illness will be placed on Family and Medical Leave if eligible.

Workers' Compensation may pay for: Hospital and medical bills from the date of the compensable injury, Temporary total disability (TTD) or temporary light duty, time lost from work as allowed by law, Permanent loss of body function, Artificial replacement as set by statute, Death benefits as set by statute.

Reporting: Each Office/Department/Division shall take responsibility for providing a safe work environment in order to help prevent injuries and ensure that the individual receives prompt medical attention should an injury occur in the workplace. It is the responsibility of all supervisors to investigate and report all on-the-job injuries or illnesses to Human Resources within 24 hours of the incident. Within 24 hours of notification, review with the individual the details of the incident to include: what the individual was doing when the injury occurred, what could have prevented the accident/ injury, and any other pertinent facts regarding the incident. Complete and sign the back section of the WC Injury Report Form and forward a copy to the Human Resources Department within 72 hours of the incident. Forms for these reports are available through the Human Resources Department or online through the Wyoming Department of Workforce Services. Notify Human Resources if the employee will miss any work. When feasible and necessary, provide modified or light duty to the employee to allow the employee to return to work as soon as possible.

Employee/Volunteer Responsibilities: Each employee is responsible for adhering to these policies and procedures and keeping their supervisor informed of their Workers' Compensation status. Report all on-the-job injuries or illnesses, no matter how slight, to their supervisor as soon as possible. Complete and sign the Wyoming Report of Injury form and submit to immediate supervisor for signature within 72 hours of the incident. Seek medical attention, if necessary, at the nearest medical facility; non-emergency injuries to an urgent care facility and critical or emergency medical needs to the hospital emergency room. Inform the medical facility/provider that the injury is job related, all claims should be filed through Workers' Compensation, and that he/she is employed by or a volunteer for the City of Lander. After treatment, if the employee is released to return to work, the employee must obtain a written release from the physician. This statement must include any work restrictions or physical limitations necessary. If the employee is not released to return to work, he/she must obtain a statement from the physician stating:

- a. That the employee is unable to return to work,

- b. . When the employee may be expected to return to work, and
- c. Any work restrictions or physical limitations which may be necessary.

All physician statements or fitness-for-duty forms must be provided to the employee's supervisor either prior to, or on the day the employee returns to duty, but in no case later than 24 hours.

An employee on workers' compensation leave will be entitled to receive the statutory benefits available under the Workers' Compensation Act of Wyoming, W.S. § 27- 14-207, et seq., and as may be determined by Workers' Compensation. Benefits may be reduced if it is determined that the injury or illness was not job related, that the injury was caused by a willful failure of an employee to use safety devices provided by the employer or willful failure to obey a reasonable safety rule adopted by the employer, or where the injury results from intoxication of the employee from drugs or alcohol. During leave for a workers' compensation injury or illness, employees, if they are capable, must keep their supervisors informed on at least a weekly basis of their medical status in regard to their ability to return to work. The City of Lander reserves the right to request periodic reports regarding the employee's medical status from the designated medical provider.

A workers' compensation claim does not preclude an employee from being separated from employment pursuant to the other provisions of this Policy Manual.

While recovering from an on-the-job injury, an employee may return to work on a temporary basis with a modified work schedule and/or with restricted duties as the case may allow. The City reserves the right to limit or deny return to work on a modified schedule or restricted duty. (Reference Light Duty Policy for details.)

Wage Replacement Payments and Payroll Procedures: An employee who sustains a compensable injury or illness and is unable to work after a waiting period of three (3) days is entitled to income benefits (TTD) which are calculated at a rate of two thirds (2/3) of the injured employee's actual monthly gross earnings at the time of injury, but shall not exceed the statewide average monthly wage. Employees who elect to receive Workers' Compensation benefits will receive wage replacement in the following manner:

- a. When an employee loses time on the date of injury due to seeking medical attention, supervisors should record the employee's time as sick leave hours with a notation of 'WC'.
- b. If an employee loses up to eight (8) consecutive days, the first three (3) days of absence shall be taken as paid sick leave. TTD payments are not allowed for the first three (3) days unless the incapacity extends beyond eight (8) consecutive days.
- c. If more than eight (8) days are lost, an employee may elect to receive Workers' Compensation benefit wages for all lost work days
- d. Following a doctor's declaration that an employee may return to full duty, any occasional absence from work related to the original injury will be charged to sick leave.

Supervisors are responsible for accurate timecard related reporting. The law requires that what is reported must be paid; not reporting time accurately may be considered falsifying an official document and therefore needs to be reviewed carefully.

Workers' Compensation and Other Benefits: When accessing Workers' Compensation benefits, the injured employee and supervisor must be aware of how the employee's status may impact other benefits and applicable policies. They include, but are not limited to, the following:

- a. **Reporting Lost Time.** Each time an employee is absent from work due to a WC injury, the employee must provide documentation from his health care provider to his supervisor
not less than every 30 days. This includes intermittent lost time.

b. Workers' Compensation and Family Medical Leave Act (FMLA). An employee who is off work on workers' compensation leave who also meets the eligibility requirements of the FMLA will have that time designated as FMLA leave. This time will count towards the 12-week FMLA entitlement. Insurance Benefits. If an employee exhausts FMLA or is not eligible for FMLA, and exhausts all leave accruals and allowable donations the employee is in 'leave without pay' status (LWOP).

c. Leave without pay (LWOP). When an employee reaches LWOP and is not protected under FMLA, they then are required to pay the City's Insurance premiums out-of-pocket to continue health benefits. In addition, all leave accruals, holiday pay, and contributions to the employee's health savings account and Wyoming Retirement Pension cease. Employees may elect to suspend their health insurance coverage; however, they will be subject to the eligibility waiting period upon returning to active status. If an employee elects to maintain coverage and fails to pay the premiums, all insurance will be canceled.

Supplementing WC Wage Replacement Payments: Upon receipt of the WC wage replacement check, an employee may opt to use available sick leave to supplement Workers' Compensation payments, but may not exceed the regular total gross earnings. To use accumulated sick leave for a Workers' Compensation injury, the employee must remit a copy of his/her Workers' Compensation check to Human Resources prior to receiving any accumulated leave payments. The difference between such benefits and the employee's regular gross earnings will be calculated and a sick leave deduction will be processed on the next payroll cycle. Employees are not obligated to use their accrued sick leave benefits to supplement the workers' compensation wage payments. Employees who have questions or disputes regarding Workers' Compensation benefits and payments should contact the Human Resources Department. Employees may also request a hearing with the Wyoming Workers' Compensation Division.

Light Duty: It is the intention of the City of Lander to return ill or injured employees, with appropriate medical release, to light duty on a temporary basis at the earliest possible opportunity. The City may make a written offer of temporary light duty work to an employee receiving temporary total disability benefits under Workers' Compensation. Workers' Compensation Act §27-14-404 (j) a.

a. Eligibility: An employee will be eligible for transitional or light duty based on: 1. the employee's medically determined physical limitations, 2. the availability of transitional or light duty positions or assignments, 3. the employee's vocational skills, additional abilities, and work experience, and 4. specific work force needs and fiscal responsibilities of the office, department, or division and the City. Unless unusual circumstances warrant, this period shall not exceed one (1) year cumulatively for any one injury and will be evaluated monthly for appropriateness by the Workers' Compensation Case Manager, Human Resources, and the employee's physician. City leave policies and benefit programs may be impacted.

b. Procedures: A light duty offer must be in writing and detail the proposed hours, starting date, and work requirements. The employee's doctor must certify that the work proposed for light duty will not harm the employee. If there is no light duty work available, then the employee is entitled to his/her full disability (TTD) until released back to full duty work. An employee who refuses a bona fide written offer of temporary light duty work shall have a reduction of TTD benefits unless the employee provides written proof to the Workers' Compensation Division of their inability to perform the light duty assignment. To participate the Employee shall sign Wyoming Worker's Safety and Compensation Division's Agreement of Temporary Light Duty/ Restricted Work form; Cooperate with the Physician's treatment plan and Temporary Light Duty program; Attend all appointments and therapy as directed by Physician; Work as scheduled. Supervisor's Responsibilities include: Work with Human Resources to develop a list of modified duty activities available within the office, department or division, if applicable; Provide employee with written light duty agreement which outlines modified schedule and/or task assignments; Orient employee to temporary light duty tasks; Report attendance, compliance, and tolerance of employee in the

Temporary Light Duty program to Human Resources; Identify and track time to timecards; and track time under FMLA if applicable. In the event that a subsequent medical evaluation indicates no possibility of future assignment to full duty, or in the event there is no longer light duty available for the employee, said employee may be required to return to workers' compensation status or be laid off. Upon an employee returning to full duty status after having been off duty due to a job related injury, a complete medical release statement or fitness-for-duty form will be required from the employee's physician.

Temporary light duty assignments may be drawn from a range of technical, administrative, and support areas that include, but are not limited to, the following: Administrative: Report review, special projects, research and compiling information, Clerical: Filing, data entry, answering phones, sorting mail; Technical: Design manuals, procedures, operational standards; perform repairs, troubleshoots issues; or conduct technical trainings, etc. Temporary light duty positions and/or assignments may be limited in number and variety. In the event that a light duty assignment causes undue hardship as a result of the reassignment from normally assigned shifts, the impacted employee is to notify the Supervisor in writing, to consider whether an alternative option is available.

Assignment to temporary light duty shall not affect an employee's pay classification, pay increases, promotions, or retirement benefits. ii. Employees on temporary light duty are prohibited from engaging in outside employment in which they may be reasonably expected to perform similar functions for which they have been determined medically unable to perform and that form the basis for their temporary light duty assignment. Depending on the nature and extent of the disability, a sworn officer on temporary light duty will not wear the departmental uniform, drive a county vehicle equipped with lights and siren, nor shall they be authorized to carry a weapon for the purposes of on-duty police functions and otherwise are limited in employing police powers as determined by the Chief.

If an employee refuses light duty for any reason other than to attend college, vocational retraining, general education development or other program designed to retrain the employee for employment in an occupation other than previously offered by the employer, temporary total di

sability benefits shall be reduced in accordance with the law. If there is no light duty work available, the employee is entitled to his/her full disability under Workers' Compensation TTD benefits, until released back to full duty.

Leave Compensation for Workman's Compensation absences: If an employee who is receiving Workers' Compensation benefits is determined by their physician to be unable to return to their regular position the employee may collect Workers' Compensation benefits. This benefit is administered through the Workers' Compensation Program and is the equivalent of two-thirds (2/3) of the employees' gross monthly income. The employee must utilize any eligible accrued benefit time or leave without pay for the remaining one-third (1/3) of their daily wage rate during the remainder of their injury leave. the employee may, during the period he or she is certified eligible for temporary total disability benefits:

- a.. Retain any accumulated sick leave, vacation hours, and receive only workers' compensation benefits or
- b.. Utilize his or her accumulated sick leave, vacation hours, in order to receive the difference between his or her regular pay and the amount paid by workers' compensation for temporary total disability benefits. Provided, however, that in no instance shall the combination of workers' compensation benefits, together with converted sick leave, vacation pay be greater than the injured worker's regular net monthly take home pay prior to his or her injury.

The City has the right to attend all Workers' Compensation job related physician appointments to ensure all restrictions are properly managed at the safety of the employee

and employer. It is the employee's responsibility to notify Human Resources of said appointments and any changes in the appointment dates and/or times, in advance of such appointment.

The City may require a fitness for duty examination, at its own expense, performed by a physician of the City's choosing to determine when the employee is capable of returning to work and if they will be capable of performing the duties of the position.

If appropriate, at the City's option, the employee may be offered temporary restricted duty, if available, for up to ninety (90) calendar days. This timeframe may be extended in extenuating circumstances upon approval of the supervisor and the mayor. An injured employee must return to their regular position and be able to perform the essential functions of that position with or without reasonable accommodation within nine (9) calendar months of their injury. If the employee is unable to return to their regular position within nine (9) calendar months, the City may transfer the employee to a position for which they have the knowledge, skills and abilities to perform the essential functions of the position or terminate the employee. The City will follow an interactive communication process with the respective employees, if necessary. This decision will be made jointly by the Supervisor, Human Resources Department and City Administration.

CONTINUATION OF INSURANCE COVERAGE

Workers' Compensation. An employee receiving Workers' Compensation benefits shall continue to accrue annual leave and sick leave for up to six (6) calendar months after their injury. The City currently continues to pay for the employer's portion of insurance premiums, provided that the employee continues to pay their share of premiums, if any. The employee must make arrangements with Payroll for the payment of their premiums while on Workers' Compensation. After six (6) calendar months from the injury, medical and dental insurance coverage ceases unless employment has been extended. However, an employee whose employment has been terminated may be eligible for COBRA benefits.

COBRA Rights. Upon an employee's separation from City employment or upon an unpaid leave of absence, and at the employee's option and expense, the employee may be eligible to continue City health insurance benefits under COBRA regulations. An administrative handling fee over and above the cost of the insurance premium may be charged to the employee or their dependents that elect to exercise their COBRA continuation rights. The Human Resources Department will notify employees of their COBRA rights.

Separation, Retirement, Leave of Absence. For eligible employees who separate, retire or are on an approved leave of absence from the City, the City will pay the employer's portion of the insurance premium for the month the employee is leaving, provided the employee is in a paid status for at least one working day of the month. In the case of Leave of Absence, if the employee is not on paid status, Family/Medical Leave or Workers' Compensation for at least one working day of the month, the employee will be responsible for paying the employer's and the employee's portions of the insurance premium if they desire coverage for that month.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LANDER adopted the amended Workers Compensation section in City of Lander Personnel Policy, a copy of which is located in the office of the City Clerk for public inspection.

PASSED, APPROVED AND ADOPTED the 11th day of JULY, 2023.

THE CITY OF LANDER,
A Municipal corporation

BY: _____
Monte Richardson, Mayor

ATTEST:

Rachelle Fontaine, City Clerk

STATE OF WYOMING)
) ss.
COUNTY OF FREMONT)

CERTIFICATE

I, Rachelle Fontaine, hereby certify that the foregoing Resolution was adopted by the City Council of the City of Lander by a unanimous vote at a regular meeting held on July 11, 2023, and that the meeting was held according to law; all council members were present; and that the said Resolution has been duly entered in the minute book of the City of Lander.

Rachelle Fontaine, City Clerk