



REQUEST FOR CITY COUNCIL ACTION

Meeting Date: December 15, 2020

| AGENDA ITEM NO. | ORIGINATING DEPARTMENT: | PRESENTED BY: |
|-----------------|-------------------------|---------------|
| Consent Agenda | Administration | Drew Nelson |

ITEM:

City of Salida Personnel Manual Update – Healthy Families and Workplaces Act Compliance

BACKGROUND:

In July of 2020, the Colorado State Legislature approved the Healthy Families and Workplaces Act, which requires Colorado employers to provide three types of paid leave to its employees: 1) COVID-19 related paid leave; 2) paid sick leave; and 3) public health emergency-related paid leave. Certain provisions of the Act take effect on January 1, 2021, and require attention in the City's Personnel Handbook.

Employers with 16 or more employees must provide each employee one hour of paid sick leave for every 30 hours worked, up to 48 hours per year. All employees must be allowed to use their leave as it accrues, which is currently allowed in the Personnel Handbook. For a majority of employees, the existing Personal Time Off (PTO) that was implemented in July of 2020 adequately addresses the HFWA's provisions; however, the Personnel Handbook did not allow for employees working less than 20 hours per week to accrue PTO. The proposed changes in the Handbook will fully conform to the new requirements that all employees are offered leave per the HFWA. We are proposing to meet the law's requirements of 1 hour of PTO for every 30 hours worked, not to exceed 48 hours in a calendar year.

These changes were reviewed by both the City Attorney as well as the Employers Council for compliance with the HFWA.

FISCAL NOTE:

There is no immediate fiscal impact, as this proposal simply adds eligible employees into accrual for PTO. However, should an employee leave, they are entitled to be paid for any PTO hours they have accrued over time. At no point will leave for an employee working less than 20 hours per week accrue more than 48 hours of PTO, limiting any negative financial impact over the long term.

STAFF RECOMMENDATION:

Staff recommends approval revised Personnel Manual, dated January 1, 2021, and to be made effective on that date.

SUGGESTED MOTIONS:

A City Councilperson should make a motion to combine and approve the items on the consent agenda, followed by a second and a voice vote.



FYI

Colorado Healthy Families and Workplaces Act **COLORADO**

Revised: August 2020

On July 14, 2020, Colorado enacted the Healthy Families and Workplaces Act (“HFWA”), which requires Colorado employers to provide three types of paid leave to its employees: 1) COVID-19-related paid leave; 2) paid sick leave; and 3) public health emergency-related paid leave.

Important Notice:

The information provided herein is general in nature and designed to serve as a guide to understanding. These materials are not to be construed as the rendering of legal or management advice. If the reader has a specific need or problem, the services of a competent professional should be sought to address the particular situation.

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Overview

On July 14, 2020, Colorado enacted the Healthy Families and Workplaces Act (“HFWA”), which requires Colorado employers to provide three types of paid leave to its employees: 1) COVID-19-related paid leave; 2) paid sick leave; and 3) public health emergency-related paid leave. Certain provisions of the Act, in particular the paid sick leave and public health emergency-related paid leave, will not take effect until 2021 and 2022, depending on the size of the employer.

The HFWA covers all employers and employees, except employers that, under a collective bargaining agreement, already provide equivalent or more paid leave than required by HFWA, the federal government, and employees covered by the federal Railroad Unemployment Insurance Act.

COVID-19-RELATED PAID LEAVE

Starting July 15, 2020, through December 31, 2020, Colorado employers, regardless of size, must comply with the Emergency Paid Sick Leave Act (EPSLA) provisions of the federal Family First Coronavirus Response Act (FFCRA) and provide up to two weeks (up to 80 hours) of paid leave to full-time employees. For employees working fewer than 40 hours a week, an employer is required to provide up to the employee’s two-week equivalent of work hours. Paid leave already provided to an employee for any of the COVID-19-related reasons below may be counted toward the two weeks of leave required by the HFWA in 2020.

QUALIFYING REASONS FOR TAKING LEAVE

An employee is eligible to take paid leave if the employee is unable to work or telework due to the employee being:

1. Ordered by a government agent (federal, state, or local) to quarantine or isolate due to a risk of COVID-19;
2. Advised by a health care provider to self-quarantine due to a risk of COVID-19;
3. Experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. Taking care of someone else who is ordered by a government agent or health care provider to quarantine or isolate due to a risk of COVID-19;
5. Caring for his or her child whose school, place of care, or child care is closed or unavailable due to COVID-19-related reasons; or
6. Experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

PAY RATE

An employee taking leave for reasons #1 to #3 above must be compensated at the same hourly rate or salary and with the same benefits as the employee normally earns, or 2/3 of that rate for leave taken for reasons #4 to #6.

The rate of pay must not be less than the applicable minimum wage and doesn't include overtime, bonuses, or holiday pay. Employees who are paid commissions must be paid the greater of: (A) their hourly or salaried rate; or (B) minimum wage.

EMPLOYER POLICIES

The HFWA allows employers to require that an employee provide "reasonable documentation" to support a COVID-19-related paid leave request.

If an employee is requesting paid leave for reasons #1 to #4, an employer may ask the employee to provide a signed statement containing the employee's name and the following information:

- The date(s) for the leave;
- The reason for the leave;
- A statement that the employee is unable to work or telework due to the reason for their leave; and
- The name of the healthcare provider or the government entity that advised the employee (or the employee's family member) to self-quarantine or isolate due to COVID-19;

If an employee is requesting paid leave for reason #5, an employer may ask the employee to provide a signed statement containing the employee's name and the following information:

- The date(s) for the leave;
- The name of the child requiring care;
- The name of the school, place of care, or child care provider that is closed or unavailable; and
- A statement that no other suitable person is available to care for the child.

An employer may not require the employee to provide documentation for the employee to take paid leave, but it can require documentation as soon as the employee reasonably can provide it.

PAID SICK LEAVE

Effective January 1, 2021, employers with 16 or more employees must provide each employee one hour of paid sick leave for every 30 hours worked, up to 48 hours per year.¹ An employee must be allowed to use their paid sick leave as it accrues. Therefore, a paid leave policy that requires an employee to wait a certain period before being allowed to take leave would not be compliant with the HFWA.

¹ An overtime exempt employee is presumed to work 40 hours a week, unless the employee regularly works fewer than 40 hours a week, then the employee's paid sick leave accrual rate would be based on the employee's work hours.

Moreover, employees must be allowed to roll over year to year up to 48 hours of unused paid sick leave, but an employer can restrict an employee from using more than 48 hours of paid sick leave in a year.

Upon termination of employment, employers are not required to pay out to employees earned, but unused paid sick leave. However, if an employee leaves the organization and is rehired within 6 months, the employer must reinstate all previously earned, but unused paid sick leave, unless such leave was paid out to the employee upon separation. The employer may not require the employee to provide documentation for the employee to take sick leave, but it can require documentation as soon as the employee reasonably can provide it.

These same requirements will apply to employers with 15 or fewer employees, effective January 1, 2022.

QUALIFYING REASONS FOR TAKING LEAVE

Employers must allow employees to use their paid sick leave if the employee:

1. Has a mental or physical illness, injury, or health condition that prevents the employee from working;
2. Needs to obtain preventive medical care, or a medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition;
3. Needs to obtain preventive care;
4. Needs to care for a family member who falls under the three categories above;
5. The employee or the employee's family member² has been the victim of domestic abuse, sexual assault, or criminal harassment, and the use of leave is to:
 - seek medical attention for the employee or the employee's family member to recover from a mental or physical illness, injury, or health condition caused by domestic abuse, sexual assault, or harassment;
 - obtain services from a victim services organization;
 - obtain mental health or other counseling;
 - seek relocation due to domestic abuse, sexual assault, or harassment; or
 - seek legal services, including preparation for or participation in a civil or criminal proceeding relating to or resulting from the domestic abuse, sexual assault, or harassment;
6. Due to a public health emergency, a public official closed either:
 - the employee's place of business, or

² "Family member" means (a) immediate family related by blood, adoption, marriage, or civil union, or anyone else for whom the employee is responsible for providing or arranging health- or safety-related care.

- the school or place of care of the employee's child, requiring the employee needing to be absent from work to care for the child.

PAY RATE

An employee taking paid sick leave must be compensated at the same hourly rate or salary and with the same benefits as the employee normally earns for hours worked. The rate must not be less than the applicable minimum wage and doesn't include overtime, bonuses, or holiday pay. Employees who are paid commissions must be paid the greater of: (A) their hourly or salaried rate; or (B) minimum wage.

EMPLOYER POLICIES

An employee may request paid sick leave orally, in writing, electronically, or by any other means acceptable to the employer. Employees should be allowed to take sick leave in at least one-hour increments, unless the employer allows for leaves to be taken in smaller increments.

If an employee has taken paid sick leave for four or more consecutive days, the employer can require that the employee provide reasonable documentation that support the reason for the leave request. However, the employer may not require more documentation than is necessary. The law prohibits employers from requiring the employee to disclose details concerning the employee's (or the employee's family) health information, domestic or sexual violence, or stalking.

PUBLIC HEALTH EMERGENCY-RELATED PAID LEAVE

Effective January 1, 2021 (for employers with 16 or more employees) and January 1, 2022 (for employers with 15 or fewer employees), during a public health emergency, an employer must provide employees up to 80 hours of paid leave (or, for an employee working fewer than 40 hours per week, two weeks of their regular hours). Up to 48 hours of unused paid sick leave accrued by the employee can be counted toward the Public Health Emergency Paid Leave required by the HFWA.

QUALIFYING REASONS FOR TAKING LEAVE

Employees can use public health emergency leave for any of the following purposes:

1. To self-isolate (or care for a family member who is self-isolating) due to the employee (or family member) being diagnosed with, or having symptoms of, a communicable illness that is the cause of a public health emergency;
2. To seek or obtain (or care for a family member needing) medical diagnosis, care, or treatment if experiencing symptoms of a communicable illness that is the cause of a public health emergency;
3. To seek for oneself (or care for a family member needing) preventive care concerning a communicable illness that is the cause of a public health emergency; or

4. If the employee is excluded from work or has to care for a family member who's excluded from work, by a government health official, or by an employer, due to the employee or the employee's family member having exposure to, or symptoms of, such an illness (whether or not they are actually diagnosed with the illness);
5. Being unable to work due to a health condition that may increase susceptibility or risk of such an illness; or
6. To care for a child or other family member whose school, child care provider, or other care provider is either unavailable, closed, or providing remote instruction due to the public health emergency.

PAY RATE

An employee taking paid sick leave must be compensated at the same hourly rate or salary and with the same benefits as the employee normally earns for hours worked. The rate must not be less than the applicable minimum wage and doesn't include overtime, bonuses, or holiday pay. Employees who are paid commissions must be paid the greater of: (A) their hourly or salaried rate; or (B) minimum wage.

NOTICE, POSTING, AND RECORDKEEPING REQUIREMENTS

HFWA requires employers to notify employees about their paid leave entitlements under the law. The notice must:

1. Specify the amount of paid sick leave to which employees are entitled and the terms of its use under the law;
2. Notify employees that employers cannot retaliate against them for requesting or using paid sick leave; and
3. Notify employees that they have the right to file a complaint or bring a civil action if paid sick leave is denied or they are retaliated against for exercising their rights under the law.

An employer can comply with those requirements by supplying each employee a written notice, containing the information above, that is in English and in any language that is the first language spoken by at least 5% of the employer's workforce. The notice must be displayed in a conspicuous and accessible location in each establishment where the employer's employees work. For employees working remotely or without a physical workspace, a notice via electronic means would suffice. The notice and posting requirements are waived during the period that an employer's business is closed due to a public health-related emergency.

The HFWA requires employers to maintain records for two years for each employee, documenting hours worked, paid sick leave accrued, and paid sick leave used under the HFWA. In a dispute between an employer and an employee regarding the employee's paid leave entitlements, an employer who failed to maintain or retain adequate records will be presumed to have violated the law, unless the employer can show by a preponderance of the evidence that it did not.



PERSONNEL MANUAL

Adopted by the Salida City Council
Effective ~~July 1, 2020~~ January 1, 2021

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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. 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 their designee in a manner consistent with this manual.

IMPORTANT NOTICE

AT THE CITY OF SALIDA, NEITHER THE EMPLOYEE NOR THE CITY 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 THE CITY 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 THE CITY 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 CITY RESERVES THE RIGHT TO SUSPEND, TERMINATE, INTERPRET, OR CHANGE ANY OR ALL OF THE GUIDELINES MENTIONED, ALONG WITH ANY OTHER PROCEDURES, PRACTICES, BENEFITS, OR OTHER PROGRAMS OF THE CITY OF SALIDA. THESE CHANGES MAY OCCUR AT ANY TIME, WITH OR WITHOUT NOTICE.

SECTION 1 – EMPLOYMENT PRACTICES

1.1 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.

1.2 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 City 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 City.

1.3 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 City'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 the City Administrator.

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.

1.4 EEO Harassment

The City strives to maintain a work environment free of unlawful harassment. In doing so, the City 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 supervisors, co-workers, and non-employees such as customers, clients, vendors, consultants, etc.

1.5 Sexual Harassment

Because sexual harassment raises issues that are to some extent unique in comparison to other types of harassment, the City 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.

Employees should report the incident to their supervisor, Department Head, or the City Administrator who will investigate the matter and take corrective action. Employee complaints will be kept as confidential as practicable. Employees who would prefer not to go to any of these individuals with their complaint should report the incident to the Mayor.

The City prohibits retaliation against an employee for filing a complaint under this policy or for assisting in a complaint investigation. If an employee perceives retaliation for making a complaint or their participation in the investigation they should follow the complaint procedure outlined above. The situation will be investigated by their supervisor, Department Head, the City Administrator or the Mayor.

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.

1.6 Violence in the Workplace

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 the City'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 the City. 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 the Chief of Police that they are carrying a concealed weapon while on City property, must show the Chief of Police the permit, and must provide the Chief of Police the weapon for inspection. Additional precautions may be taken depending upon the circumstances.

1.7 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 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.

1.8 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, with a written and signed authorization by the employee.

An employee who wishes to review their personnel file should submit a written request to the custodian of the personnel files. An appointment will be 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, insurance changes, tax exemptions, residence, telephone, emergency notification, and other relevant information within 30 days of the change.

1.9 Performance Evaluations

Communication between the City 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 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. Supervisors 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. Supervisors are encouraged to document performance discussions and, in certain situations involving performance issues, will be required to document interim discussions. Supervisors and Department Heads should consult with the City Administrator 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 the City Administrator for filing in the employee's personnel file. Having more documentation will make it easier for the supervisor to write the 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.

1.10 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 they are going to be unavoidably late or absent, they must personally notify 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.

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.

1.11 Separation

Employees are free to resign at any time for any reason. Employees desiring to end their employment relationship with the City should notify their supervisor 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 final pay.

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

SECTION 2 – 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:
1. Full-time (FT) - Persons who are normally scheduled to work 40 hours (or more in the case of firefighters) each workweek and 52 workweeks each year are full-time employees and are eligible for all legally mandated benefits as well as City discretionary benefits outlined separately in a benefits overview document.
 2. Special Full-time (FT-S) - Persons who are normally scheduled to work 30 hours or more but less than 40 hours each workweek and at least 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.
 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 at least 50 workweeks each year are part-time benefitted employees and are eligible for all legally mandated benefits as well as participation in a sub-set of City discretionary benefits outlined separately in a benefits overview document, subject to limitations in plan documents. To the extent such documents differ from this policy, the plan documents will control eligibility.
 4. Part-time Non-benefitted (PT) - Persons who are regularly scheduled to work less than 20 hours per week are part-time employees. Part-time employees are not eligible for the City benefits except where required by law.
 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 benefits except where required by law.
 6. Temporary (T) - Persons 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 are not eligible for the City benefits as outlined in the benefits overview document except where required by law.
 7. Elected Officials (E) - The mayor, council members, and treasurer who are elected are not considered employees. 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. 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 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, they may appeal the fee to the City Administrator.

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 supervisor.

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 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 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. Salaried supervisors who are not eligible for additional pay for the call-out 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 86 hours in a 14-day pay period, and firefighters are eligible for overtime pay after working 106 hours in a 14-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 86 hours for police and 106 hours for firefighters in a 14-day cycle are considered "straight-time" overtime and are compensated at the employee's regular rate of pay

Work will be organized so that overtime is avoided whenever possible, and then should be kept to a minimum. Any overtime must be coordinated by the Department Head. This may take the form of direct consent each time or, alternatively, consistent application of guidelines approved by the Department Head. Sick, vacation, 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 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.
- C. Deduction from Pay Check. The City will deduct from employee's 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.
- D. 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 attorney's fees

incurred in obtaining a judgment for the damages and penalties, pursuant to Colorado's civil theft statute (§18-4-405).

E. Salary for Exempt Employees. It is the City's guideline to comply with the salary basis requirements of the FLSA. Therefore, the City prohibits all supervisors and Department Heads from making any improper deductions from the salaries of exempt employees. Deductions from salaries that are permissible:

1. Personal absences. The City may deduct for full day absences for personal reasons other than sickness or disability.
2. Absences for illness or injury. The City 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. The City 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. The City may offset employees' pay for amounts received by the employee for jury fees, witness fees, or military pay.
5. Infractions of safety rules. The City may deduct for penalties imposed when salaried employees violate safety rules of major significance.
6. Infractions of workplace conduct rules. The City 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. The City may make partial week payments during an employee's first or last weeks of employment.

Employee believing that an improper deduction has been made to their salary should immediately report this information to the City Administrator. Reports of improper deductions will be promptly investigated by the City Administrator. If it is determined that an improper deduction has occurred, employees 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.

SECTION 3 – 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.

| Employee Benefit Offering | Employee Type | | |
|---|---------------|------|------|
| | FT | 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. Personal Time Off | X | X | X |
| 13. Paid Holidays | X | X | |
| 14. Retirement Savings – 457 deferred savings plans | X | X | X |
| 15. Retirement Savings – 401(a) or FPPA plans | X | | |
| 16. 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.

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 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 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.

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.

3.3 Personal Time Off

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

- A. Purpose. Recognizing the varying work schedules of City employees and employee's diverse needs for time away from work, the City provides a general Personal Time-Off (PTO) leave program for its employees. Personal Time Off is accrued by ~~regular all~~ employees to use for vacations; ~~medical/dental appointments, personal business, child care problems, bereavement, family emergencies, off the job injury, incidental illness, incidental care for family members, and all other absences not covered under another plan~~ mental or physical illness, injury, or health condition that prevents them from working; preventive medical care, or to get a medical diagnosis, care, or treatment; the employee or the employee's family member having been a victim of domestic abuse, sexual assault, or criminal harassment, and needing leave for related medical attention, mental health care or other counseling, victim services (including legal services), or relocation; or due to a public health emergency, a public official having closed either the employee's place of business or the school or place of care of the employee's child, requiring the employee needing to be absent from work to care for the child.
- B. Eligibility Criteria:
 1. Effective on appointment, all ~~Regular, Special, and Part Time Benefitted~~ employees will accrue Personal Time-Off on a bi-weekly basis for 26 pay periods each year according to the following schedule:

| | Full Time Regular – 40 Hours | | Full Time Special – 30+ Hours | | Part Time Benefitted – 20+ Hours | | Part Time Non Benefitted – Less than 20 Hours | | Firefighting Personnel | |
|---------------------|---------------------------------|---------------------------|----------------------------------|---------------------------|--|---------------------------|---|---------------------------|----------------------------|---------------------------|
| Years of Service | Hours per Pay Period | Annual Accrual Days | Hours per Pay Period | Annual Accrual Days | Hours per Pay Period | Annual Accrual Days | Hours per Pay Period | Annual Accrual Days | Hours Per Pay Period | Annual Accrual Days |

| | | | | | | | | | | |
|---------------|------|----|------|-------|------|-------|------|-------|-------|-------|
| 0 through 3 | 6.15 | 20 | 4.62 | 15 | 3.08 | 10 | N/A* | N/A** | 7.90 | 25.75 |
| 4 through 5 | 6.77 | 22 | 4.92 | 16 | 3.31 | 10.75 | * | ** | 8.70 | 28.25 |
| 6 through 7 | 7.08 | 23 | 5.31 | 17.25 | 3.54 | 11.50 | * | ** | 9.10 | 29.5 |
| 8 through 10 | 7.69 | 25 | 5.54 | 18 | 3.69 | 12.00 | * | ** | 9.88 | 32.25 |
| 11 through 14 | 8.00 | 26 | 6.00 | 19.50 | 4.00 | 13.00 | * | ** | 10.28 | 33.5 |
| 15 or more | 8.92 | 29 | 6.69 | 21.75 | 4.46 | 14.50 | * | ** | 11.46 | 37.25 |

*Accrue at a rate of 1 hour of Personal Time Off for every 30 hours worked.

**Not to exceed 4.33 days annually.

- Personal Time-Off accruals will increase to the next level beginning on the first full pay period following the employee's appropriate anniversary date, (date of hire with the City as a "regular" benefited employee).
- PTO will continue to accrue during periods of absence while the employee remains in an active pay status. However PTO accrual will be discontinued during periods of Short Term Disability (STD) and Long Term Disability (LTD) unless the employee uses PTO hours to supplement his/her disability payment in order to receive 100% of their normal base pay.
- Maximum Accumulation - The maximum accumulation of Personal Time-Off will be limited as shown in the following chart. An employee who reaches the maximum accrual limit will not be credited with further Personal Time-Off until their accruals are reduced below the limit.

| | Full Time Regular – 40 Hours | Full Time Special – 30+ Hours | Part Time Benefitted – 20+ Hours | Part Time Non Benefitted – Less Than 20 Hours | Firefighting Personnel |
|------------------|------------------------------------|-------------------------------------|--|---|---------------------------|
| Years of Service | Maximum Accrual Hours | Maximum Accrual Hours | Maximum Accrual Hours | Maximum Accrual Hours | Maximum Accrual Hours |
| 0 through 3 | 210 | 157.5 | 105 | N/A 48 | 270 |
| 4 through 5 | 225 | 168.75 | 112.5 | 48 | 290 |
| 6 through 7 | 240 | 180 | 120 | 48 | 308.5 |
| 8 through 10 | 260 | 195 | 130 | 48 | 334 |
| 11 through 14 | 270 | 202.5 | 135 | 48 | 347 |
| 15 or more | 300 | 225 | 150 | 48 | 385.5 |

C. Utilization:

- Scheduling Personal Time Off: Scheduled PTO is distinguished from unscheduled PTO by the degree of control or discretion the City, through its supervisors and Department Heads, exercise in the scheduling of time off.
 - Scheduled Use: Every effort will be made to accommodate the employee's requested dates for PTO, ~~however, the scheduling of time off will be at the discretion of the supervisor and/or Department Head based upon operational considerations.~~ To schedule leave, a Request for Leave form must be submitted in advance of the use of

the leave to the supervisor or Department Head no less than five (5) days prior to the usage of leave unless otherwise directed by the employee's Department Head.

- b) **Unscheduled Use:** In the event the employee is unable to work due to unforeseen personal illness or injury, or for other unforeseen reasons, the following provisions will apply:

1) **Notification** – If unable to report to work for any reason, employees must personally communicate this fact to the supervisor or designee as early as required by the individual's operating department. Such notification must be made each time a scheduled work shift will be missed unless the supervisor has pre-authorized otherwise. Employees failing to comply with this provision (except for a showing of good cause as determined by the Department Head), will not be paid for an unscheduled absence and will be subject to disciplinary action.

~~2) **Verification of Need for Unscheduled Leave** – The employee may be required to furnish medical verification or other proof that unscheduled use of PTO was unavoidable. Such proof may be requested by the employee's supervisor or Department Head.~~

~~3)~~2) The unscheduled use of Personal Time-Off on seven (7) or more occasions within a calendar year will be documented to the employee's personnel file by the employee's supervisor and may reflect negatively on the employee's annual evaluation. All consecutive work day absences for the same reason will be considered as one occasion for the purpose of this policy. The unscheduled use of PTO on seven or more occasions or as otherwise found to be excessive by the supervisor and Department Head may be subject to discipline.

~~4)~~3) In the case of any unscheduled use of PTO leave due to personal illness or injury exceeds four (4) consecutive work days, the employee may be required to obtain, at the employee's expense, medical confirmation that the employee was unable to perform work during said leave. The City reserves the right to require that such confirmation be obtained from the City's health care provider. If the employee is required to obtain confirmation from the City's health care provider, said confirmation will be at the City's expense.

2. **Emergency Donation of Accrued but unused PTO** – Employees may donate accrued but unused PTO to be used by other employees who have exhausted all of their available leave time.

D. **Compensation:**

1. **Payment for Personal Time-Off at Separation** – Upon termination, retirement or death, payment will be paid, at the employee's base rate of pay, for unused PTO time up to the maximum accrual amount the employee is allowed.

- a) The official separation date will be the last day of active employment and will not be extended with unused PTO leave unless pre-authorized by the City Administrator.
- b) Upon the death of an employee, compensation of applicable unused accrued PTO leave will be paid to the estate of the deceased employee.

E. Other Provisions:

- 1. PTO may be taken in quarter-hour increments and must be accurately reported on time sheets. PTO hours will be charged against the employee's accrued PTO for only those hours the employee is regularly scheduled to work. An employee may not take more PTO leave than they have accrued as of the date the leave is used.
- 2. Designated holidays which occur during PTO leave will not be charged against PTO time.
- 3. PTO will not be counted as time worked for the purposes of computing overtime.
- 4. Forfeiture of accrued PTO leave as a disciplinary action will not be authorized and no employee will lose accrued PTO leave when promoted, demoted, or transferred.
- 5. The City Administrator has the authority to give years of service credit for previous similar employment for PTO accrual purposes during compensation negotiations at the time of hire.
- 6. Conversion of pre-existing Vacation and Sick Leave.
 - a) Vacation Leave. All vacation leave hours held by City employees as of close of business or end of shift on June 30, 2020 will be converted on a 1:1 ratio to PTO leave, with accruals of PTO commencing on July 1, 2020.
 - b) Sick Leave. All sick leave hours held by City employees as of close of business or end of shift on June 30, 2020 will be converted on a 4:1 ratio to PTO leave, with accruals of PTO commencing on July 1, 2020.

Conversion of both vacation and sick leave to PTO leave on June 30, 2020 shall be allowed up to the maximum accrual amount as identified in Section B.d. above. All converted leave above the maximum accrual amount shall be forfeited.

3.4 Paid Holidays

- A. Eligibility. Only 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 by City Council:

List of Recognized Holidays:

| | | |
|------------------------|------------------|------------------------|
| New Year's Day | Memorial Day | Thanksgiving Day |
| Martin Luther King Day | Independence Day | Day after Thanksgiving |
| Presidents' Day | Labor Day | Christmas Day |
| | Veterans' 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 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 Non-Exempt Workers:

- When a non-exempt employee works on an official holiday, the employee will receive premium holiday pay at time and one-half regular pay for the hours worked, plus Holiday Pay.
- When a non-exempt employee has the holiday as a regularly scheduled day off, the employee will be paid Holiday Pay.
- When an employee is sick on an official holiday, the time will be considered a holiday.
- 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 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. New employees hired after June 1st of each year are not eligible for the personal floating holiday within the same calendar year.

3.5 Statutory Leaves of Absence

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, 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.

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

- E. Emergency Volunteer Service Leave. Any 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:
- Seeking a civil restraining order to prevent domestic abuse;
 - 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;
 - 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;
 - 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 sick time first and then vacation leave, 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 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:
 - 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.
- D. 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."*

- E. Benefits and Protections. During FMLA leave, the City 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 City 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 employee's jury duty pay are not granted on unpaid leave.

- F. Eligibility Requirements. Employees are eligible if they have worked for the City 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.
- G. 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.

- H. Use of Leave. The maximum time allowed for FMLA leave is either 12 weeks in the 12-month period as defined by the City, or 26 weeks as explained above. The City 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 City'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 City's agreement may be required to temporarily transfer to another job with equivalent pay and benefits that better accommodates that type of leave.

- I. Substitution of Paid Leave for Unpaid Leave. The City 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 City's normal paid leave policies. If an employee's leave of absence does not constitute paid leave as defined in the City'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.
- J. 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 City's normal call-in procedures.

Employees must provide sufficient information for the City 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 City 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. The City may require second and third medical opinions at the City'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 City's attendance guideline. Employees on leave must contact the Administrative Coordinator at least two days before their first day of return.

- K. The City's Responsibilities. The City 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 City will provide a reason for the ineligibility. The City 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 City determines that the leave is not FMLA-protected, the City will notify the employee.
- L. Unlawful Acts. FMLA makes it unlawful for the City 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.

M. Enforcement. An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against the City. 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 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 termination of employment, effective immediately.

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.

3.11 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.

- 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.

Employees requiring additional accommodation should contact their supervisor or Department Head.

SECTION 4 – EMPLOYEE DISCIPLINE/DISCHARGE

Occasionally performance or other behavior falls short of the City's standards and/or expectations. When this occurs, the City 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 the City in an individual case does not establish a precedent in other circumstances.

SECTION 5 – 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 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:

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| 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 City 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 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:
 - The direct benefit to the employee and the City;
 - Budgetary considerations; and
 - 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 approved 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:
 - The student has successfully completed the course;
 - Shows the date of completion;
 - Shows the final grade; and
 - Indicates the number of units or hours earned.

SECTION 6 – 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.

6.5 Employment of Relatives

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

- 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.

6.6 Romantic Relationships

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 their supervisor or Department Head. 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.

6.7 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, 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 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.

6.8 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 their right to vote while off-duty:

- A. 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.
- B. 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.
- C. No employee shall place or allow to be placed any political media on a City vehicle.
- D. Any active, full-time or part-time regular employee who is announcing candidacy for an elected office may choose to continue their 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 their position with the City if the elected office has any dealing whatsoever, with the City.
- E. Department Heads shall remain publicly neutral on all City elections for public office.

6.9 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.

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. 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.

6.10 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.

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.

6.11 Alcohol and Drug-Free Workplace

- A. Purpose. 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. Employees with other questions should refer to this separate statement or contact their supervisor.

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 the City, 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.

6.12 Communications Systems

The City'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 City. All information regarding access to the City's computer resources, such as user identifications, modem phone numbers, access codes, and passwords are confidential City information and may not be disclosed to non-City personnel.

All computer files, documents, and software created or stored on the City'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 City premises without written approval from a Department Head. Upon separation of employment, all communication tools should be returned to the City.

- A. 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 City prohibits the display, transmittal, or downloading of material that is in violation of City guidelines or otherwise is offensive, pornographic, obscene, profane, discriminatory, harassing, insulting, derogatory, or otherwise unlawful at any time.

- B. Software and Copyright. The City 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 City facilities.
- C. 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 City communication systems in ways that supervisors and Department Heads deem to be inappropriate. Employees with questions whether a behavior would constitute unauthorized use should contact their supervisor or Department Head before engaging in such conduct.
- D. 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 City 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 City, product, or service through the use of e-mail or anywhere else on City premises at any time. The City 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.

- E. Voice Mail. The City voice mail system is intended for transmitting business-related information. Although the City does not monitor voice messages as a routine matter, the City 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.
- F. 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 City 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 City telephone lines should not be used for personal long distance calls.

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

6.13 Residency Requirements

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

- A. City Administrator. The City Administrator is required to be a resident of the City within thirty (30) days of their first day of employment.
- B. 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.

6.14 Open Door Policy

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 their 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 supervision or to the Police Chief, City Administrator, Finance Director or Mayor.
- B. The employee can report anonymously.
- 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 City 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, Department Head 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 City are subject to subpoena.

6.15 Ethics

Employees at the City must be committed to the highest ethical standards in the execution of their duties and responsibilities. Employees feeling they are being asked to violate City guidelines should address their concerns with their supervisor, Department Head or the City Administrator.

Employees are expected to report perceived ethical violations. The City expects employees to make a timely report to enable the City to investigate and resolve any behavior that may be in violation. Any 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.

6.16 Job Related Problems

Employees who disagree or are dissatisfied with a City 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 the City's 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 their Department Head. If the problem still cannot be resolved, employees may submit a written complaint to the City Administrator for review and final decision about the situation. Also see the EEO/Harassment Complaint Procedure on page 6.

6.17 Smoking

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.

6.18 Data Disposal Policy

During the course of 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:

- The employee’s 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.

ACKNOWLEDGMENT OF RECEIPT

I HAVE RECEIVED A COPY OF THE EMPLOYEE HANDBOOK DATED NOVEMBER 19, 2019. I UNDERSTAND THAT I AM TO BECOME FAMILIAR WITH ITS CONTENTS. FURTHER, I UNDERSTAND:

EMPLOYMENT WITH THE CITY OF SALIDA IS AT-WILL. I HAVE THE RIGHT TO END MY WORK RELATIONSHIP WITH THE CITY, WITH OR WITHOUT ADVANCE NOTICE FOR ANY REASON. THE CITY HAS THE SAME RIGHT.

THE LANGUAGE USED IN THIS HANDBOOK AND ANY VERBAL STATEMENTS OF THE CITY ARE NOT INTENDED TO CONSTITUTE A CONTRACT OF EMPLOYMENT, EITHER EXPRESS OR IMPLIED, NOR ARE THEY A GUARANTEE OF EMPLOYMENT FOR A SPECIFIC DURATION.

THE HANDBOOK IS NOT ALL INCLUSIVE, BUT IS INTENDED TO PROVIDE ME WITH A SUMMARY OF SOME OF THE CITY'S GUIDELINES.

THIS EDITION REPLACES ALL PREVIOUSLY ISSUED HANDBOOKS. THE NEED MAY ARISE TO CHANGE THE GUIDELINES DESCRIBED IN THE HANDBOOK, EXCEPT FOR THE AT-WILL NATURE OF EMPLOYMENT. THE CITY OF SALIDA THEREFORE RESERVES THE RIGHT TO INTERPRET THEM OR TO CHANGE THEM WITHOUT PRIOR NOTICE.

NO REPRESENTATIVE OF THE CITY OF SALIDA, OTHER THAN THE CITY COUNCIL, HAS THE AUTHORITY TO ENTER INTO AN AGREEMENT OF EMPLOYMENT FOR ANY SPECIFIED PERIOD AND SUCH AGREEMENT MUST BE IN WRITING, SIGNED BY THE MAYOR OR CITY ADMINISTRATOR AND MYSELF. WE HAVE NOT ENTERED INTO SUCH AN AGREEMENT.

Employee's Signature

Date

Employee's Name