



**WESTMINSTER**

# **Personnel Policies and Rules**

**January 1, 2024**

City of Westminster  
4800 W 92nd Avenue  
Westminster, CO 80031  
[www.westminsterco.gov](http://www.westminsterco.gov)

**City of Westminster  
Personnel Policies and Rules  
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# Personnel Policies and Rules

## January 1, 2024

### I. Introduction

The purpose of this document is to implement and explain the provisions of the City Charter, the City Code, and City administrative policy with regard to a personnel management system. It contains important information about organization-wide work rules, hiring and promotion practices, leave and other benefits, compensation, disciplinary actions, the grievance process and other issues that are important and of interest to employees.

**Each employee is responsible for familiarizing themselves with the Personnel Policies and Rules, as well as the above-referenced governing documents.** As such, all employees shall be familiar with the contents of this document and any other administrative policies pertaining to employees, personnel rules and policies, as well as operation guidelines and protocols.

Administrative memorandums and a copy of the Personnel Policies and Rules are available on the City Intranet site.

These policies and rules are not a contract and impose no legally enforceable obligation on the City of Westminster. The nature, terms or conditions of employment of the City's employees cannot be changed by any oral representations or any other writing. In the event of conflict between this disclaimer and any other statement, oral or written, present or future, concerning terms and conditions of employment, this disclaimer shall control.

All Department Directors and Division Managers are at-will employees. A Department Director or Division Manager may be terminated from employment at any time, with or without notice, warning, procedure or formality, for any reason or no reason, with the City's only obligation being payment of wages earned and benefits vested through the last day worked.

Non-Exempt and Exempt employees may be terminated for cause. Cause for termination of these employees is not limited to those set forth in these policies and rules, nor must the reason for termination be like or of seriousness similar to those described in these policies and rules.

## **II. Definitions**

The following section provides definitions for many of the terms used in this document.

ADA:

Americans with Disabilities Act and all amendments thereto.

Affordable Care Act:

Federal Act signed into law in 2010. This Act is also known as the Patient Protection and Affordable Care Act (PPACA).

Alcohol Use:

The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Anniversary Date:

The date from which time will be computed in order to determine eligibility for regular status and scheduled salary increases. This date is normally the last date of hire or last promotion.

Appeal:

The action taken by an employee in order to have the employee's suspension, demotion or dismissal reviewed by the Personnel Board and the City Manager or Designee.

Appointing Authority:

A Division Manager or higher-level position who has the authority to make original appointments or recommend such appointments.

Authorized Position:

A position that is approved by City Council and listed on the Full Time Equivalent Staffing Summary.

Board:

The Personnel Board.

Body Cameras for Law Enforcement Officers:

In policing equipment, a body camera or wearable camera, also known as body worn video (BWV) or body-worn camera (BWC), is a wearable audio, video, or photographic recording system used to record events in which law enforcement officers are involved. They are typically worn on the torso of the body on the officer's uniform.

CBA:

Collective Bargaining Agreement.

CDL:

Commercial Driver's License.

Certification:

The act of the Human Resources Director, or Designee, in supplying a department with names of applicants who are best suited for an open position.

Charter:

The home rule charter of the City of Westminster.

City Code:

The City of Westminster Municipal Code.

Class:

A position or group of positions that are sufficiently similar with respect to skill, effort and responsibility that they may be properly designated by the same title, and equitably compensated from the same range of pay under substantially the same employment conditions.

Collective Bargaining:

Collective bargaining is a process of negotiation between the employer and a group of employees aimed at agreements to regulate working conditions and salaries. The interests of the employees are commonly presented by representatives of a trade union to which the employees belong.

Compensatory Time:

Leave hours earned for hours worked beyond the scheduled work period or beyond the work period designated for Fair Labor Standards Act compliance.

Consolidated Omnibus Budget Reconciliation Act (COBRA):

The Act allows employees or other “qualified beneficiary” to continue health care coverage due to termination of employment or other qualified events.

Continuous Municipal Service:

Uninterrupted length of service with the City of Westminster in a position or positions designated as receiving Vacation Leave, Sick Leave, medical and dental insurance and other fringe benefits.

Controlled Substances:

Includes any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15, including, but not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), steroids, psychedelic mushrooms, other plant and fungi-derived psychedelic drugs, and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Westminster will follow the Federal and DOT regulations.

Corrective Action:

The verbal counseling or verbal reprimand of an employee for the purpose of communicating deficiencies in the employee’s conduct or performance.

Council:

The City Council of Westminster, Colorado.

Demotion:

The movement of an employee from a position in one class to a position in another class having a lower maximum salary rate than the original class, or the movement of an employee to a lower salary in the same class.

Department Director:

An individual who is regularly responsible for directing and managing the overall operations of a City department as authorized by the Charter or City Code, and who has been designated as a Department Director by the City Manager. The City Manager, Deputy City Manager, and the City Attorney shall assume duties assigned to Department Directors in these rules for carrying out those actions involving positions that report directly to them. All Department Directors are at-will employees.

Disciplinary Action:

A written reprimand, suspension, demotion, dismissal, or any other documented action taken in a disciplinary manner involving an employee.

Discrimination:

There are two forms of discrimination – disparate treatment and disparate impact. Disparate treatment means an employee is being treated differently or less favorably in terms and conditions of employment than other similarly situated employees because of membership in a protected class (race, religion, color, sex, etc.). Disparate impact is where a policy may seem to be neutral or that it applies equally to everybody, but it has a disparate or disproportionate impact on terms and conditions of employment compared to similarly situated individuals not in a protected class.

Division Manager:

An individual appointed by the Department Director to manage a work group designated as a division within the department. For purposes of these rules, the City Manager, Deputy City Manager, Department Director, or the City Attorney shall assume the responsibilities assigned to Division Manager when the employee in question reports to a Department Director, the City Attorney, Deputy City Manager, or the City Manager. All Division Managers are at-will employees.

DUI:

Driving Under the Influence as defined in the Colorado Revised Statutes.

DWAI:

Driving While Alcohol Impaired as defined in the Colorado Revised Statutes.

DWI:

Driving While Impaired as defined in the Colorado Revised Statutes.

EAP:

The City's Employee Assistance Program.

EBT:

Evidentiary Breath Testing device used to test for the presence of alcohol in the body.

EEOC:

Equal Employment Opportunity Commission.

Employee:

A person who receives monetary compensation from the City in return for present services or work performed on a non-contractual basis, or who is on a leave of absence without pay that has been approved by the Human Resources Director or Designee. This definition shall include all full-time and part-time regular, Department Director, Division Manager, temporary, seasonal, substitute, hourly, instructor, intern, special project, short-term disability, and emergency employees. This definition excludes elected municipal officials, all volunteers, and retirees from the City.

Employee—Department Director, Division Manager:

An Exempt employee whose position is listed in the Department Director/Division Manager pay schedule of the City Pay Plan.

Employee—Emergency:

An employee who has received an appointment to a position during an emergency situation, to prevent undue delay or serious interferences with the provision of necessary public services.

Employee—Exempt:

An employee who is exempt from the overtime provisions of the Fair Labor Standards Act. Reference to Exempt employees in upper case refers to those employees whose positions are listed in the Exempt employee pay schedule in the City Pay Plan.

Employee—Hourly:

An employee who has received an appointment to a temporary position to provide services on an hourly basis in specifically designated areas and work an intermittent schedule with no defined number of hours.

Employee—Instructor:

An employee who has received temporary appointment for specific instructional activities conducted on behalf of the City. Instructor's work is part-time, scheduled work and there is no limit to the amount of time an employee may hold a position in this capacity.

Employee—Intern/Apprentice:

An employee who has received an appointment to a temporary position in an intern/apprentice capacity for a period generally of up to three (3) years.

Employee—Non-Exempt:

An employee who is entitled to overtime pay or compensatory leave time under circumstances specified by the Fair Labor Standards Act. Reference to Non-Exempt

employees in upper case refers to those employees whose positions are listed in the Non-Exempt employee pay schedule in the City Pay Plan.

Employee—Probationary:

An employee who has been appointed to an authorized exempt or non-exempt position in the municipal service, but who has not yet completed the probationary period.

Employee—Regular:

An employee who has been appointed to a full-time authorized non-exempt or exempt position in the municipal service, and who has successfully completed the initial probationary period.

Employee—Regular Part-Time:

An employee who has been appointed to a part-time authorized, non-exempt or exempt position to work less than forty (40) hours during a seven (7) day period on a regular basis, and who has successfully completed the initial probationary period.

Employee—Seasonal:

An employee who has received an appointment to a temporary position for a specified period of time, normally for a designated season.

Employee—Short-Term Disability:

An employee who is appointed to this category is receiving short-term disability pay and has an authorized medical professional certification stating that they are unable to return to work in their authorized position.

Employee—Special Project:

An employee who has received an appointment to a specified project or assignment.

Employee—Substitute:

An employee who has received an appointment to a temporary position for part-time, occasional work on a “substitute” as needed, or on-call basis, or to fill in for absences and staffing shortages on a part-time or full-time basis.

Employee—Temporary:

An employee who has received an appointment to a position for a specific period of time generally not to exceed three (3) years.

EPEW:

Equal Pay for Equal Work Act – Colorado Statute enacted January 1, 2021.

Examination:

A written, oral, physical, or skill test, or a combination of these tests, specifically used to assist in evaluating an applicant’s qualifications for a particular position.

FLSA:

Fair Labor Standards Act Work Period – The Fair Labor Standards Act (FLSA) work period for all non-exempt employees shall be forty (40) hours in a seven (7) day period.

The FLSA work period for law enforcement personnel shall be eighty (80) hours in a fourteen (14) day period and for firefighting and emergency medical personnel it shall be one hundred eighty-two (182) hours in a twenty-four (24) day period.

FMLA:

Family Medical Leave Act.

Fringe Benefit:

Any form of compensation in addition to the base salary as adopted by Council. Vacation Leave, Sick Leave, health and life insurance, uniforms, cleaning allowance, educational reimbursement, safety shoes, and other benefits are some examples of fringe benefits. Regular full-time and regular part-time employees are eligible to receive fringe benefits. All other categories of employees may be eligible to receive some or all fringe benefits as authorized by the Human Resources Director, or Designee.

FTE:

Full-Time Equivalent.

Good Standing:

Good standing is a designation that may be given to employees who leave the City, and is also known as “eligible for re-hire.” An employee must turn in a written resignation or retirement notice two (2) weeks prior to leaving employment with the City to be eligible to be classified as leaving in “good standing.”

Grievance:

A disagreement regarding the meaning, interpretation, application, or alleged violation of these policies and rules adopted hereunder, departmental policies, rules, or any other administrative policies of the City.

Harassment:

There are two types of harassment – hostile work environment and quid pro quo. Hostile work environment harassment includes behaviors that are unwelcome, offensive, directed at or because of a protected characteristic, severe or pervasive. Quid pro quo is a type of sexual harassment where a manager will condition an employee’s continued employment or other tangible employment action on getting a benefit or even receiving a detriment in exchange for sex.

Health Care Provider:

A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices; or any other person approved by the Human Resources Director, or Designee, as capable of providing health care services who is authorized to practice in their state and performing within the scope of their practice as defined under state law, including podiatrists, dentists, optometrists, clinical psychologists, licensed professional counselors, clinical social workers and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist).

HFWA:

Healthy Families and Workplaces Act.

HIPAA:

Health Insurance Portability and Accountability Act.

Holiday:

The period between 12:01 a.m. and the following midnight of the date designated as a holiday.

Investigation Leave:

An employee may be placed into an investigation status, with pay, pending the outcome of an investigation involving the employee.

IRP:

Immediate Response Pay – a premium pay that may be authorized by the City Manager, or Designee, for use under special circumstances, including when a non-exempt employee is called in to work for a period of time that is not part of their scheduled work hours, and is generally for use in an emergency or unanticipated call-in.

Job Description:

Job descriptions are to be interpreted in their entirety and in relation to others in the classification plan. Particular phrases or examples shall not be isolated and treated as full definitions of a class. Job descriptions are descriptive and explanatory of the kind of work required in positions, and not inclusive of all duties to be performed.

Job Share:

A position that is filled by two (2) or more employees where their duties and responsibilities entail a joint effort and require that both/all employees are jointly responsible for accomplishing the duties of the whole position.

Job Split:

A position that is filled by two (2) or more employees who are assigned independent duties and responsibilities and in which the employees are treated as part-time equivalents.

Job Title:

The title assigned to any particular class and used for reference to that class.

Layoff:

The separation of an employee from municipal service, which has been made necessary by the lack of work or funds or other reasons not related to fault, delinquency, or misconduct on the part of the employee. This term shall include those separations initially expected to be temporary, as well as those resulting from the elimination of a position.



Legacy Division Manager:

An employee who was most recently a Division Manager and, due to an organizational redesign or other business needs, no longer has that working title but maintains certain rights, responsibilities, and authorities. These positions are designated by the City Manager. For the full policy, please refer to the City's Administrative Memos on the Intranet.

Legally Prescribed Drug:

A prescription or other written approval from a physician for the use of a drug in the course of medical treatment which includes the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization.

MRO:

Medical Review Officer.

On-Call Duty:

A mandatory requirement to remain readily accessible through telephone or pager communications and within a specified radius of a work site in order to be available to report to work within a specified period of time if the need arises.

On-Call Status:

A mandatory requirement to carry a pager or telephone in order to be available to report to emergency calls if the need arises.

Original Appointment:

The appointment of a person to a benefited position in the municipal service.

Outside Employment:

Any work other than the employee's primary position in the City performed for monetary compensation. This includes self-employment and positions which may or may not be in the City organization.

Overtime Pay:

Monetary compensation for hours worked beyond the work period designated for FLSA compliance.

Position:

A group of current duties and responsibilities requiring the full, temporary, or part-time services of one (1) employee.

Probationary Period:

A working test period following an original appointment, a promotion, a lateral transfer or a demotion during which an employee is required to demonstrate the ability to satisfactorily perform and learn in the assigned position.

Progression:

A series of related positions where employees are allowed to move to higher level positions upon achievement of established criteria.

Promotion:

The movement of an employee in good standing from a position of one class to a position of another class typically including a change in the position's authority, duties, or opportunities, and/or changing the job title and pay.

Promotional Examination:

An examination for positions in a particular class for which admission is limited to employees in good standing and who meet the qualifications set forth in the job specifications.

Reclassification:

The official determination by the City Manager, or Designee, and/or City Council that a position be assigned to a class different from the one to which it was previously assigned.

Relative:

The employee's spouse (including common law spouse), partner in a civil union pursuant to Colorado law, child, stepchild, grandchild, parent, grandparent, brother, sister, half-brother, half-sister, or any of those relationships arising through adoptions or civil union pursuant to Colorado law.

RIF:

Reduction in Force – An action which may include temporary and/or permanent layoffs, partial reduction in FTE, job transfers and reclassifications.

SAMHSA:

Substance Abuse and Mental Health Services Administration.

SAT:

Substance Assistance Team – A group of employees who can assist the supervisor in making decisions that comply with these rules, protect employee and public safety and promote consistence in substance screening decisions. Members are also available as resources to employees with questions pertaining to the administration of this policy. Members of the SAT include the Human Resources Director, the Human Resources Manager, and the Human Resources Administrator.

Scheduled Work Day:

The hours specified by the Department Director or Division Manager for which an employee receives the employee's base salary.

Scheduled Work Period:

The work period specified by the Department Director or Division Manager as the period during which an employee shall work for the employee's base salary.

Separation:

The voluntary or involuntary severing of an employee's employment with the City.

Sexual Harassment:

Sexual harassment on or off duty is specifically defined as any type of offensive conduct based on an individual's sex or gender identity, whether or not the conduct is sexual in nature, where: 1) submission to or rejection of this conduct by an individual is used as a factor in decisions affecting hiring, evaluation, promotion, or other aspects of employment; or 2) this conduct unreasonably interferes with a person's employment or creates an intimidating, hostile, or offensive work environment.

Substance Abuse:

The use of alcohol or substances so that an employee would test positive for alcohol or controlled substances while on duty or on call for duty, including the use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

Supervisor:

Any individual having authority, in the interest of the City, to hire, transfer, suspend, layoff, promote, discharge, assign, reward, or discipline other employees, or having responsibility to direct them, or to adjust their grievances, or effectively having the authority to recommend such action, if the exercise of such authority is not merely routine or clerical in nature, but requires the use of independent judgement. Appointing authority and hiring.

Suspension:

The temporary separation of an employee from performing their regularly assigned duties with or without pay for disciplinary reasons.

Transfer:

The movement of an employee from one (1) position to another position for which the employee is qualified.

### **III. General Provisions**

#### **(A) Policies and Rules:**

These rules will, from time to time, be supplemented and revised by additional policies and rules that shall be issued by the City Manager, or Designee. Such changes may be needed to address changes in the City Code or Charter, or to address administrative changes and needs within the organization.

Each employee is responsible for familiarizing themselves with the Personnel Policies and Rules, as well as the above-referenced governing documents. As such, all employees shall be familiar with the contents of this document and any other administrative policies pertaining to employees, personnel rules and policies, as well as operation guidelines and protocols.

Administrative memorandums and a copy of the Personnel Policies and Rules are available on the City Intranet site.

#### **(B) Department Regulations:**

A Department Director shall have the authority to establish such policies and rules, standard operating procedures or guidelines deemed necessary for the efficient and orderly administration of the department. All such policies and rules should be in writing, kept on file in the department, and be consistent and compatible with these rules, the City Code, the Charter, and all applicable laws.

## **IV. Organization for Personnel Administration**

### **(A) City Council:**

The City Council is the ultimate personnel policymaking authority for the City of Westminster.

### **(B) Personnel Board:**

The Personnel Board consists of five (5) members and two (2) alternates, all of whom are Westminster citizens appointed by Council for terms not to exceed two (2) years. The Board serves as an advisory body to the City Manager, or Designee, and Human Resources Director, or Designee, on matters pertaining to personnel administration. The Board also has the authority and responsibility to hear and make findings and a decision when a regular employee files an appeal in accordance with the provisions set out in the City Code and these rules.

### **(C) City Manager:**

The City Manager is responsible for the effective administration and periodic revision of these rules, and for advising Council and the Board of appropriate improvements to the City Code and Charter. The City Manager may designate individuals to carry out these administrative functions.

### **(D) Human Resources Director, or Designee:**

The Human Resources Director, or Designee, is the City Manager's authorized representative to administer and to implement the City's personnel management program. The Human Resources Director, or Designee, is responsible for the following:

1. Preparing and recommending position classification and pay plans, and directing the continuous administration of these plans;
2. Acting as the City's EEO, HIPAA, ADA, and FMLA Officer as these laws relate to employee conduct and treatment;
3. Developing and administering such recruiting, examination and selection programs as may be necessary to obtain qualified applicants for municipal service;
4. Certifying appointments, promotions, demotions, discipline, reductions in force and other personnel actions directed towards employees;

5. Establishing and maintaining personnel records and an employee roster;
6. Exercising leadership in the development of effective personnel administration within the various City departments, and encouraging development of programs for the improvement of employee effectiveness, efficiency, job knowledge and training, in cooperation with department and division management and others;
7. Administering the employee grievance procedure;
8. Recommending revisions to the City Code and these rules as necessary for the improvement of the personnel management program; administratively interpreting and clarifying the provisions of the City Code, and any policies and rules adopted pursuant to the rules when questions on the meaning and intent arise; and,
9. Monitoring new practices, techniques, theories and philosophies in the field of personnel management.

## **V. Classification Plan**

### **(A) Description of Classification Plan:**

A classification plan resulting from an analysis and evaluation of all positions in the municipal service shall be prepared at least biennially and maintained by the Human Resources Director, or Designee. It shall consist of a listing that groups all positions in classes, based on the skills, effort, responsibility, and qualifications that are necessary or desirable for the satisfactory performance of the duties of the class. The classification plan includes titles and written job descriptions for the various classes of positions. Each class includes all positions in the municipal service, which are sufficiently similar with respect to duties, responsibilities, and authority, so that the same descriptive title may be used to designate each position allocated to the class.

### **(B) Job Descriptions:**

Job descriptions are to be interpreted in their entirety and in relation to others in the classification plan. Particular phrases or examples shall not be isolated and treated as full definitions of a class. Job descriptions are descriptive and explanatory of the kind of work required in positions, and not inclusive of all duties to be performed. It is recommended that job descriptions be reviewed by employees and supervisors annually as job duties may change. Current job descriptions are available via the "Employment" link on the City's website.

### **(C) Uses of the Classification Plan:**

The classification plan shall be used:

1. To provide uniform job terminology, understandable by public officials, employees and the general public;
2. To prepare public announcements of examinations or vacancies;
3. As a general guide in preparing examinations that will measure the qualifications needed to satisfactorily perform the work of the class;
4. To determine lines of promotion;
5. To develop employee training programs; and
6. As a guide in determining salaries for various types of work.

**(D) Administration of the Plan:**

The classification plan will be reviewed on at least a biennial basis with amendments made in conjunction with the amended pay plan. Any suggested revisions or modifications of the existing classification plan may be filed in writing with the Human Resources Director, or Designee, by the Department Director. Such changes also may be initiated by the Human Resources Director, or Designee.

Upon receipt of such request, the Human Resources Department shall evaluate the request. Such evaluation shall include consideration of the comments of all Department Directors whose employees might be affected by the proposed changes and possible audit and survey processes. The full results of the evaluation, including the recommendation of the Human Resources Director, or Designee, shall be transmitted to the City Manager, or Designee, for appropriate action.

**(E) Amendment of the Classification Plan:**

Council approval of the job titles and pay ranges in the pay plan constitutes approval of the classification plan.

**(F) Reclassification of Positions:**

Whenever the duties and responsibilities of a position change substantially, the Human Resources Director, or Designee, shall review the change of duties and recommend to the City Manager, or Designee, an appropriate reclassification. The City Manager, or Designee, shall then make the final decision as to whether a position is to be reclassified. An employee who is occupying a reclassified position shall continue in the position only if the employee's Division Manager and the Human Resources Director, or Designee, determine through evaluation that the employee is qualified for a position in the new class. If the employee is not qualified for a position in the new class, the Human Resources Director, or Designee, may transfer the employee to an appropriate position if a vacancy for which the employee is qualified exists; otherwise, the employee shall be laid off and may be placed on a reemployment list for a period of up to one (1) year, awaiting possible appointment to the employee's original position or a substantially similar position for which the employee is qualified. If departmental restructure results in fewer positions than current employees, then a competitive process may be used to select the most qualified candidate(s). The Human Resources Director, or Designee, may determine that a regular employee be given the opportunity to demonstrate competence in the reclassified position and in such cases the employee may be placed on probation for a period of six (6) months in the new position.



## VI. Pay Plan

### **(A) Preparation, Adoption, and Amendment of Pay Plan:**

The Human Resources Director, or Designee, as the representative of the City Manager, is responsible for the development and maintenance of a citywide compensation plan, which shall consist of minimum and maximum rates of pay for each class or position. Salary ranges shall be related directly to the position classification plan, and shall be determined with due regard to range of pay for other classes, requisite qualifications, prevailing rate of pay for like work in other public and private organizations, recruiting experience, working conditions, suggestions of Department Directors, maintenance of other benefits received by employees, the financial policy of the City, and other economic considerations. In addition, the Human Resources Director, or Designee, shall develop, maintain and update a set of salary complements which shall be designed to assist in attracting and retaining qualified employees. The pay plan shall be submitted to Council by the City Manager, or Designee, for adoption on an annual or biennial basis in order to maintain the competitive nature of the City's personnel program.

The City of Westminster strives for equal pay for equal work and is committed to complying with federal laws on pay equity, including the long-established Equal Pay Act, as well as all federal anti-discrimination laws applicable to employment and those within Title VII of the Civil Rights Act. These laws allow bona fide pay differentials when they are based on business factors such as competencies, education, certifications, seniority, merit, or collective bargaining agreements. The City of Westminster is committed to pay transparency and we endorse regular, organization-wide pay analyses to aid in reducing any unconscious bias or structural barriers in hiring practices, performance assessment, promotional guidelines, and leadership opportunities that may contribute to pay inequities.

### **(B) Appointment Rate:**

The minimum rate of pay for a class shall normally be paid upon appointment. Appointment rates above the minimum may be paid, if recommended by the Human Resources Director, or Designee. No new employee may be hired at a salary higher than the maximum established and adopted for that position in the current pay plan.

### **(C) Normally Scheduled Salary Increases:**

Non-Exempt employees' pay is established through a grade and pay system published annually and adopted by City Council. Employees may be eligible

for normal scheduled salary increases. Human Resources will administer and maintain regular pay progression schedules.

Exempt employees, Department Directors, and Division Managers may receive pay increases at the beginning of each year based on their individual performance and experience in the position. Pay recommendations for exempt employees will be reviewed by the Division Manager and Department Director, as well as the Human Resources Director. The City Manager, or Designee, will review all Department Directors and Division Managers recommendations prior to approval.

**(D) Promotion:**

Upon promotion, the employee shall receive a salary commensurate with the employee's qualifications or recommendation of the Division Manager in consultation with the Human Resources Director, or Designee. The employee may typically be placed on six (6) months' probation upon recommendation of the Division Manager and will have as a new anniversary date the effective date of the promotion.

Employees covered under the Fire Commissioned and Police Sworn Pay Plans will receive an increase based on performance and the pay plan and promotion schedule.

**(E) Progression:**

The movement of an employee to the higher pay grade position within a series of related classifications occurs when an employee has successfully met established criteria for the movement. A progression to a higher-level position within a series of related positions does not require a new probationary period or a new anniversary date. This movement is considered a scheduled salary increase and will follow the appropriate increase schedule.

**(F) Accelerated Scheduled Salary Increase:**

Non-Exempt employees who have not yet attained the highest step in their pay range are eligible to receive an accelerated salary increase for outstanding job performance at the time of their regular performance review. Any such salary increases must be authorized in writing by the Division Manager with the concurrence of the Department Director. The standard practice for non-exempt employees is one additional step.

**(G) Withholding or Delaying Salary Increases:**

Non-Exempt employees who have not yet attained the highest step in their adopted pay range are subject to having any scheduled salary increase delayed or withheld typically in six (6) month increments if job performance is not satisfactory and/or not meeting expectations. Reasons for delaying or withholding a scheduled salary increase shall be provided in writing to the Human Resources Director, or Designee, who shall initiate the appropriate Personnel Action Form. A Division Manager may initiate the withholding or delaying of any salary increase if job performance warrants with the concurrence of the Department Director. Future anniversary dates will change in accordance with the time the increase is delayed.

**(H) Citywide Delays in Pay Progression:**

Citywide delays in progression through the pay plan may occur if authorized by the City Manager, or Designee, after review with Council. These delays in progression through the pay plan could be authorized, for example, based on economic conditions and budgetary constraints. Future anniversary dates will not be affected by these types of delays.

**(I) Transfer:**

An employee who is transferred may receive the rate of pay closest to their existing pay but normally within the pay range of the new position. The Human Resources Director, or Designee, may approve the freezing of the incumbent's salary. The salary of the incumbent employee shall not be increased until such time as the top of the pay range for that classification exceeds the employee's salary. The employee will have a new anniversary date, effective the date of the transfer. Employees transferred may be placed on probation for a six (6) month period. Scheduled salary increases shall be annual based on the new anniversary date for non-exempt employees and at the scheduled exempt merit review for exempt employees.

**(J) Salary Increases for Temporary Employees:**

Employees in this category may receive salary increases due to length of service or job performance as established administratively, by position, according to the adopted pay plan or at the discretion of the Division Manager.

**(K) Pay Upon Reclassification:**

If an employee is reclassified into a position classification with a lower maximum pay range, the employee will typically receive the rate of pay in the new range that most nearly coincides with the previous rate of pay. The

Human Resources Director, or Designee, may approve the freezing of the incumbent's salary. The salary of the incumbent employee shall not be increased until such time as the top of the pay range for that classification exceeds the employee's salary.

If an employee is reclassified to a position classification with a higher maximum pay range, the employee shall receive at least the minimum rate of pay in the new pay range or a higher step as determined administratively by the Human Resources Director, or Designee. Reclassifications shall not be subject to the provisions of advertising open positions if there is a qualified incumbent to fill the position.

**(L) Reduction of Pay Ranges Resulting from Annual Review of Pay Plans:**

If, as result of Human Resources' review of the pay plan, the salary range of a classification is reduced to the point where an incumbent's salary is above the new range, the Human Resources Director, or Designee, may approve the freezing of the incumbent's salary. The salary of the incumbent employee shall not be increased until such time as the top of the pay range for that classification exceeds the employee's salary.

**(M) Increase in Pay Range Resulting from Annual Review of Pay Plans:**

If, as a result of Human Resources' annual review of the pay plan, the salary range of a non-exempt classification is increased, the incumbent's step in the new range will be based on a step position that most closely reflects the percent (%) increase warranted by the market data acquired, in addition to any general across-the-board market adjustment. Market adjustments may impact pay progression through the range.

**(N) Demotions:**

A demotion shall result in the employee being placed in a classification having a lower pay range or at a lower pay rate in the employee's current pay range. In the case where the employee remains in the same classification, the demotion may result in a decrease in pay commensurate with the employee's qualifications or recommendation of the Division Manager in consultation with the Human Resources Director, or Designee, as long as the rate of pay after the decrease is at least the minimum of the pay range. Employees demoted may be placed on probation for a six (6) or twelve (12) month period at the discretion of the Division Manager. Scheduled salary increases will be considered annually based on the new anniversary date for non-exempt employees and at the scheduled exempt merit review for exempt employees.

**(O) Notice on Salary Changes:**

An employee who has a salary change due to demotion, or whose salary is frozen, shall be so advised in writing, with the exception of a salary change as a result of market salary changes. Employees having a scheduled salary increase denied or withheld shall be advised in writing as to the reasons for such action.

**(P) Voluntary Furlough:**

The City Manager, or Designee, may authorize Department Directors to grant voluntary furloughs for designated periods of time to address specific budgetary constraints. If available, an annual limit will be established by the City Manager, or Designee. When authorized, Department Directors may consider requests for voluntary furloughs in half (½) to full day increments. All benefits will continue while employees are on voluntary furlough. Fringe benefits calculated based on wage will be impacted by the furlough (i.e. retirement contributions). The granting of voluntary furloughs is at the discretion of the Department Director based on operational needs and employee performance. For the full policy, please refer to the City's Administrative Memos on the Intranet.

**(Q) Mandatory Furlough:**

The City Manager, or Designee, has the authority to mandate unpaid time off to address economic conditions, temporary reductions in workload and budgetary constraints. Such unpaid time off, or furloughs, may be authorized in any increment of days and/or hours. It may coincide with the closure of a facility or operation, may be selected by a Department Director or may be required through a substitution of paid leave with an unpaid mandatory furlough. Furloughs will be established and communicated to employees and Council with at least a thirty (30) day lead time. Any employee may be required to take a mandatory furlough, and the furlough requirement may be for designated groups only. The City Manager, or Designee, may extend full or partial fringe benefits to employees for the duration of a mandatory furlough.

**(R) Merit Award Program:**

All employees are eligible to receive merit awards on a lump sum basis. The amount of the special pay will be determined administratively. Bonuses of up to one thousand dollars (\$1,000.00) will be based on exemplary job performance, cost saving improvements, or a temporary assignment substantially above normal job requirements based on the recommendation of the employee's Division Manager and the approval by the Department Director. Bonuses in excess of one thousand dollars

(\$1,000.00) may be recommended by the Department Director and then referred to the City Manager, or Designee, and the Human Resources Director for review and approval. The economic condition of the City and availability of budgeted funds may be a limiting factor on the amount and number of merit awards granted annually.

**(S) Overtime Pay:**

Non-exempt employees will receive overtime compensation at the rate of one and one-half (1 ½) times their regular hourly pay rate only if they work more than forty (40) hours in a seven (7) day period unless working a different designated FLSA work cycle. All additional hours must be approved by a supervisor. All hours worked must be reflected on payroll time sheets in one quarter hour increments.

Scheduled work days and defined work periods may be adjusted by the Division Manager to address service demands either on a long-term or temporary basis. An employee called in to work during an emergency shall receive a minimum of two (2) hours of pay. If the employee completes the work from home, no minimum hours of pay will apply.

For purposes of computing overtime pay under the Fair Labor Standards Act (FLSA), the work period of all non-exempt, non-law enforcement, non-firefighting and non-emergency medical personnel is designated as a forty (40) hour period during the seven (7) days beginning 12:01 a.m. Monday through midnight of the following Sunday. Hours worked in excess of forty (40) during this seven (7) day period shall be considered overtime. The work period for determining overtime for law enforcement personnel shall be fourteen (14) day periods beginning at 12:01 a.m., January 21, 2008. Hours worked in excess of eighty (80) during the applicable fourteen (14) day period shall be considered overtime. The work period for determining overtime for firefighting and emergency medical personnel shall be twenty-four (24) day periods beginning at 12:01 a.m., February 16, 2018. Hours worked in excess of one hundred eighty-two (182) during the applicable twenty-four (24) day period shall be considered overtime. Only hours worked during the FLSA period will be considered for the purpose of computing overtime or compensatory time earned.

Supervisory and administrative employees shall have the authority to require overtime work as necessary. For non-exempt employees, work over and above the normal work period, including volunteer work that is directly job related and work taken home, is compensable and must be approved in advance by the employee's supervisor.

Compensatory Time may be provided in lieu of overtime pay in accordance with Section IX of these rules.

City employees paid on a salary basis with erratic work week schedules will be paid one-half (½) time overtime for hours worked in excess of the maximum hours worked during their FLSA cycles. City personnel may work in an off-duty capacity at a pay rate established by the City. This pay is not considered hours worked for the purpose of calculating overtime.

**(T) Immediate Response Pay:**

A premium pay that may be authorized by the City Manager, or Designee, for use under special circumstances, including when a non-exempt employee is called in to work for a period of time that is not part of their scheduled work hours, and is generally for use in an emergency or unanticipated call-in. This generally does not include times when employees voluntarily agree to work additional shifts outside of their regular work schedule or when an employee responds from home for a brief period of time, less than thirty (30) minutes.

Employees working in ongoing twenty-four (24) hour per day operations that are typically always staffed with multiple employees, including but not limited to, sworn Police, dispatch, and Fire, are generally not eligible for this pay.

An employee is only eligible for Immediate Response Pay for the employee's first emergency call out shift outside their normally scheduled hours and not for subsequent shifts in an ongoing emergency. This includes when an employee is on call and is called in for an emergency event.

Employees using this pay code will continue to record all regular hours worked, and in addition, will receive an additional flat rate pay depending on the duration of the emergency event, as detailed in the chart below. Emergency event hours that fall within an employee's regular work schedule do not count towards the calculation of the total length of the emergency event.

<b>Length of Emergency Event</b>	<b>Flat Rate Pay</b>	<b>Pay Code</b>
0.1 – 4 Hours	\$50.00	487 (IRP 0.1-4)
4.01 – 8 Hours	\$100.00	488 (IRP 4.01-8)
8.01 + Hours	\$150.00	489 (IRP 8+)

In the event of a multi-day event, Immediate Response Pay shall be recorded on the first day an employee responds to the emergency event. Immediate Response Pay will be paid in addition to the employee's regular hourly rate for hours worked and in accordance with Fair Labor Standards Act (FLSA) and the City's Overtime Pay Policy (VI. Pay Plan; (S) Overtime Pay). Employees recording Immediate Response Pay must record a full week of paid hours based on their authorized FTE.

**(U) Training Pay:**

Non-exempt employees are eligible for overtime pay for training hours beyond the normally scheduled work period when the training is required by the City and must be approved by a supervisor.

**(V) Travel Pay:**

For purposes of computing hours worked, when a non-exempt employee travels away from home overnight on City business, such travel shall be considered work time when it occurs during the employee's regular work period. Travel time outside the normal work hours is not compensable unless:

1. A special one (1) day work assignment requires travel and work hours in excess of the employee's regular total hours for the day, or
2. The travel time occurs during the employee's normal work hours on days the employee would normally have off, or
3. The employee performs work while traveling, or
4. The employee is required to drive and thereby is not free to relax.

**(W) Court Appearance Pay:**

Any employee who testifies in any Court, hearing or deposition pursuant to subpoena in the line of duty shall be compensated for such time spent. Time spent in performing this type of work shall be considered hours worked when computing overtime pay for non-exempt employees. Court appearance pay during off-duty hours shall be provided for the time required to travel to and from the location where the hearing is being held and the actual hearing time itself.



**(X) Mileage Pay:**

City pool vehicles are available for use by City employees on City business who do not have an assigned City vehicle for regular use. Employees should attempt to reserve and use a City pool vehicle or use their assigned City vehicle whenever possible.

Any employee driving a personal vehicle while on authorized City business shall receive compensation at the rate established by the City Manager, or Designee, upon filing the appropriate form with the Finance Department after approval of the employee's supervisor. The employee will provide, at no cost to the City, at least the statutory insurance coverage for the employee's vehicle. Those employees receiving a monthly transportation allowance are only eligible to receive mileage pay for travel outside of the Denver metropolitan area. The City's mileage reimbursement rate or monthly transportation allowance provides for the additional cost for insurance, as well as, fuel and wear and tear that employees incur due to job related usage. For the full policy, please refer to the City's Administrative Memos on the Intranet.

**(Y) Transportation, Travel, and Other Official Expenses:**

Employees who incur expenses in the conduct of City business shall be reimbursed for such expenses according to the written policy established by the City Manager, or Designee.

**(Z) Pay Certification:**

No payroll check shall be issued to any employee until the Human Resources Director, or Designee, has certified in writing to the Finance Department that each person named on the payroll has been employed in accordance with the appointment and classification procedures of these rules, and that the salary rates for all are those authorized by the adopted pay plan. The method of certification shall be the Personnel Action Form.

**(AA) Pay Periods:**

Pay periods shall be fourteen (14) calendar days from 12:01 a.m., Monday through midnight on Sunday of the following week. Pay days shall be the Friday following the end of the pay period or as established by the Human Resources Director or Designee if a holiday occurs on a pay day Friday.

**(BB) Method of Pay Computation:**

The hourly pay for non-exempt full-time employees, except shift firefighting personnel, is computed by dividing the base annual salary by twenty-six (26) and then dividing by eighty (80) hours. The hourly pay for

Fire Department personnel working twenty-four (24) hour shifts is computed by dividing the base annual salary by two-thousand nine hundred twelve (2,912). The hourly pay for non-exempt part-time and temporary employees shall be as designated in the City pay plan.

Any non-exempt employee who is to receive less than the employee's biweekly salary will have pay computed on the actual number of hours worked during that pay period, plus any paid leaves.

Overtime pay shall be computed by multiplying the hourly equivalent base wage times one and one-half (1 ½). Half time overtime will be computed by multiplying the hourly equivalent base wage times one-half (½).

**(CC) Salary for Exempt Employees:**

All exempt employees shall be paid on a salary basis, which shall not be subject to reduction because of variations in the quality or quantity of work performed, unless the employee is absent from work for a day or more for personal reasons, illness, mandatory or voluntary furlough, or if the employee is suspended without pay.

**(DD) Erroneous Payments:**

If the City makes any payment that, according to the terms of the City's Personnel Policies and Rules, the City's Pay Plan or the fringe benefits provided thereunder, should not have been made, authorized personnel may recover that incorrect payment by whatever means necessary, whether or not it was made due to the error of City staff, the person to whom it was made, or any other appropriate party.

**(EE) Erroneous Payments to Retirement Plans:**

If the City's Plan Administrator makes any payment that, according to the terms of the Plan Document and the benefits provided thereunder, should not have been made, the City's Plan Administrator may recover that incorrect payment by whatever means necessary, whether or not it was made due to the error of the Plan Administrator, the person to whom it was made, or any other appropriate party.

## **VII. Recruitment and Selection**

### **(A) Vacancies:**

All position openings in the non-exempt and exempt pay plans shall be filled according to standards outlined in these rules using, as appropriate, the following: promotion, transfer, or original appointment from candidates not currently employed by the City. The Human Resources Director, or Designee, and the appropriate Division Manager, shall determine which of these methods of filling the position vacancy best serves the needs of the department and the City and shall then fill the position vacancy using one or more of these methods.

### **(B) Requisition:**

When an authorized position is to be filled, the Division Manager will submit a personnel requisition form to the Human Resources Department to be approved by the Human Resources Director, or Designee. Upon receipt of the personnel requisition, the Human Resources Department shall initiate actions to fill the open position. Requisitions for positions that were not specifically budgeted require the approval of the City Manager, or Designee.

### **(C) Announcements:**

All authorized position openings in the municipal service will be advertised by posting announcements through such media as the Human Resources Director, or Designee, deems advisable. The announcement will specify the title, salary range, basic duties of the class, a summary of qualifications, place and manner of making applications, and any other pertinent information. It may not be necessary to advertise position openings that are to be filled through transfer, reclassification, demotion, or FTE changes.

### **(D) Application Process:**

An application for a vacant position shall be made, where practical, on the application provided by the Human Resources Department. Such form requires information regarding the applicant's training, experience, education, and other appropriate information. A supplemental information form may also be required.

All applicants are responsible for the timely submittal of accurate information on applications and must be signed or electronically verified by the person applying.

**(E) Selection:**

The Human Resources Director, or Designee, reserves the right to limit the number of applicants examined for any position to a number that is practical in terms of physical facilities and staffing available to administer examinations. The methods to determine which applicants are best to examine shall be accomplished through comparative evaluation of applications. Employees testing or interviewing for a City position, will not be required to use Vacation Leave during the formal recruitment process.

**(F) Admission May be Restricted to City Employees:**

Admittance to position examinations may be limited to employees in the municipal service on a citywide basis when the Human Resources Director, or Designee, after conferring with the Division Manager concerned, determines that there are a sufficient number of qualified candidates within the existing employee workforce.

**(G) Employment of Relatives:**

Applicants who are related to existing employees will be denied placement in positions where:

1. One relative would directly exercise supervisory, appointment, dismissal, authority, or disciplinary action over the other relative;
2. One relative would audit, verify, receive, or be entrusted with monies received or handled by the other relative, unless audit procedures or security measures are in place to ensure system integrity and fraud prevention;
3. One relative would have direct access to employee's confidential information, including payroll and personnel records unless audit procedures or security measures are in place to ensure system integrity or fraud prevention; or,
4. One relative's position in the City could potentially represent a conflict of interest as a result of personal, financial or business connections outside the organization.

In the event a separation or transfer is necessary to achieve compliance with this section, the employees affected will be given the opportunity to determine first between themselves which one will be separated or transferred should a vacancy exist for which the person opting for transfer is qualified. In the event the relatives do not make such a choice

in writing within seven (7) calendar days of the Human Resources Director's, or Designee's, request to transfer or terminate, the Human Resources Director, or Designee, shall choose which employee is to be separated or transferred based on past job performance and the City's needs.

**(H) Employment Process:**

Employment offers may be made on a conditional basis. Conditional offers may be contingent on successful completion of criminal background checks, certification and education verification, credit and/or reference checks and other various employment related testing, including polygraphs, and non-medical psychological assessments.

When acceptable information is received, in the pre-employment and/or pre-qualification for reclassification process, candidates will be made an offer. Post-offer substance screens, physicals and medical psychological assessments may be required. Final offers will be provided after passing mandated post-offer assessments. New benefited employees are required to attend benefited orientation/onboarding. Temporary or Seasonal employees may be required to complete a non-benefited orientation prior to employment.

Employees may be ineligible to receive some benefits until they have completed the required paperwork and election materials. The City may terminate employment if required documentation is not provided within lawful timeframes.

**(I) Non-Discrimination:**

No action affecting the employment status of any employee or applicant for a position in the municipal service, including examination, appointment, promotion, demotion, suspension, or removal shall be taken or withheld by reason of race, color, sex, gender identity, sexual orientation, national origin, political or religious affiliation, age, disability, marital status, or military veteran status.

**(J) Hiring Preference:**

To the extent allowed by law and the Colorado Constitution, the City of Westminster allows for a hiring preference for both military veterans and persons with disabilities. Applicants must meet the minimum qualifications or any other requirements for the position. Applicants must voluntarily identify during the application process as being considered in either category, and must submit either proof of military service (Member Copy 4

of the DD-214 separation document showing the character of service or a letter from the Department of Veterans affairs inclusive of any disability rating) or proof of a disability as defined in the Americans with Disabilities Act of 1990, as amended. Applicants who both meet the position's qualifications and requirements and submit appropriate proof of military service or disability will be added to the list of eligible candidates for interview.

**(K) Promotional/Transfer Examinations:**

Promotional/transfer examinations may be limited to employees who meet the minimum qualifications and are in good standing.

Promotional/transfer examinations shall be conducted in the same manner as original appointment examinations.

**(L) Rehire of Former Employees:**

An employee who has separated from the municipal service may be re-employed only by complying with all conditions prescribed in the rules in effect at the time of re-employment. All accrued rights, privileges, or benefits of previous City employment are null and void upon separation unless required by law.

**(M) Retention of Applications:**

Only applications filed or renewed during the filing period may be considered unless the application is received from a centralized recruitment service in which the City participates.

**(N) Filing Period:**

To be accepted for consideration, applications and required supplemental information must be delivered to the Human Resources Department after the posting of the position and by the closing time specified in the announcement or advertisement.

**(O) Disqualification from Consideration:**

The Human Resources Director, or Designee, may automatically remove from consideration the application of an applicant who the Human Resources Director, or Designee, determines:

1. Is found to lack the minimum qualifications described in the job description;

2. Has used, or attempted to use, political influence or bribery to secure advantage in consideration for appointment;
3. Has made a false or misleading statement of any material fact or has practiced, or attempted to practice, deception or fraud in the application or examination; or,
4. Has otherwise violated provisions of the Charter, City Code, or these rules.

**(P) Restriction of Total Number of Candidates:**

The Human Resources Director, or Designee, may limit the maximum number of candidates who may be considered for a position to those who the Human Resources Director, or Designee, deems to be the best qualified for the position.

**(Q) Notification of Selection Results:**

Persons selected to interview for a specific position opening with the City shall be notified of the selection results in a timely fashion.

**(R) Certification:**

The Human Resources Director, or Designee, shall certify to the Division Manager the best qualified applicants for each position opening based on the results of the selection procedures and the number and quality of applicants. The Division Manager shall then make the final selection from those certified. The Division Manager may reject all those certified, should the position or work assignment change significantly due to reorganization or redirection of work effort. The Human Resources Director, or Designee, will then recruit and conduct a new selection process.

In the event no qualified applicant applies for a position opening, the Human Resources Director, or Designee, and the Division Manager shall determine what, if any, action should be taken to secure qualified applicants or to fill the position vacancy according to these rules.

**(S) Temporary, Intern/Apprentice, Instructor, Substitute, Hourly, or Seasonal Positions:**

Recruitment, selection, and appointment to temporary, intern/apprentice, instructor, substitute, hourly, and seasonal positions may not be subject to the procedures applicable to filling regular full-time and part-time position openings. The Human Resources Director, or Designee, and Division

Manager shall coordinate the procedure to be utilized in filling these positions.

**(T) Department Directors, Division Managers, and Exempt Positions:**

Selection procedures for Division Managers and Exempt positions will be established by the Department Director with approval by the Human Resources Director, or Designee, and the City Manager, or Designee. Selection procedures for Department Director positions will be established by the Human Resources Director, or Designee, and approved by the City Manager, or Designee.

**(U) Job Share and Job Split Positions:**

Employees may be allowed to participate in job share or job split positions when such positions are beneficial to the City and to the employees. The affected Department Director or Division Manager, along with the Human Resources Director, or Designee, will consider proposals for job share or job split positions submitted by current employees and applicants; however, the decision to allow or disallow job share or job split positions rests with the respective Division Manager.

Job share and job split positions shall be counted in terms of full-time equivalents (FTEs) and not in terms of the individuals. Employees in a job share or job split position who are otherwise eligible to receive benefits shall receive vacation and other benefits on a prorated basis. However, the combined pay or paid hours of the position shall not exceed what would normally be allowed for one person in the position. The job share or job split will not result in a position with less than one-half (0.5) FTE.

**(V) Re-Employment:**

Regular employees whom the Human Resources Director, or Designee, deems to have a satisfactory employment record with more than one (1) year of service within their current position and promotional employees who are laid off, transferred or reclassified to another position may be placed on a re-employment list for consideration to be re-employed in their previous or similar position for a period of one (1) year following the date of separation. Employees may be subject to testing and certification requirements to ensure that the employee is qualified for the position upon re-employment.

**(W) Eligibility Lists:**

The Human Resources Director, or Designee, may maintain an eligibility list for the Police or Fire Department for a period of up to twelve (12) months for



command level positions. The process for inclusion in an eligibility list shall allow for all employees to participate in the process and no new employee hired after the process starts shall be eligible for promotion to those positions in the eligibility list until the next promotional process.

**(X) Medical Examinations:**

Original appointments, transfers, promotions, or reclassifications may be contingent upon the prospective employee being certified by a City contracted Health Care Provider as capable of satisfactorily performing the essential tasks of the position and may include a substance screen. Under appropriate circumstances, and at the request of the Division Manager, the Human Resources Director, or Designee, may require a current employee to submit to a physical fitness test, psychological assessment, and a physical or mental examination by a qualified Health Care Provider to re-certify that the employee is capable of performing the essential functions of the position.

It is the responsibility of the employee to maintain physical and mental fitness for the position. It shall be cause for dismissal if the result of a physical or mental examination indicates that the employee is no longer capable of performing essential functions of the position.

**(Y) Residence:**

Employees may be required to live within a certain radius of the City of Westminster as determined by the City Manager, or Designee, or the Department Director. The City Manager, or Designee, or Department Director may consider pertinent facts in determining residency requirements including, but not limited to, the position's general job duties and essential functions, emergency or on-call duties, supervisory responsibilities, and the best interest of the City.

**(Z) Moving Expense:**

The hiring department may authorize the payment of moving expense(s) for staff at the discretion of, and with the limitations imposed, by the City Manager, or Designee.

**(AA) Categories of Appointment:**

All appointments by an appointing authority shall be made into one of the following categories and descriptions as follows:

1. Regular Appointment:

After a full-time non-exempt or exempt employee has successfully completed the probationary period, the employee shall receive a

regular appointment with the City. Regular non-exempt or exempt employees can only be terminated pursuant to the provisions in Section X. Employees in this classification are eligible for the fringe benefits approved by City Council.

2. Probationary Appointment:

All non-exempt and exempt employees new to a regular or part-time regular position shall be considered probationary until they have up to one (1) year of satisfactory service in their position or as otherwise provided in Section VIII. Probationary employees are subject to termination after a pre-disciplinary meeting at any time in accordance with the procedures specified in Section VIII. Probationary employees are eligible for fringe benefits if filling a regular FTE.

3. Part-Time Regular Appointment:

Non-exempt part-time employees will be paid at an hourly rate. Part-time exempt employees will be paid on a salaried basis, prorated based on their full-time equivalency. Employees in positions authorized at twenty (20) or more hours per week are eligible for City fringe benefits and some benefits may be prorated. After a part-time non-exempt or exempt employee has successfully completed the probationary period, the employee shall receive a regular part-time appointment with the City. Employees of this category are subject to termination for cause pursuant to Section X. Authorized hours are determined by the full-time equivalency (FTE) assigned to the position. An employee may work beyond the authorized FTE, however, only the authorized FTE will be considered in determining an employee's level of benefits.

4. Temporary Appointment:

Employees in this category are appointed for a temporary period of time. Temporary employees shall be paid at an hourly rate or salary basis and may not be eligible for City fringe benefits unless authorized by the Human Resources Director, or Designee. Employees in this category are subject to termination by the Division Manager at any time without cause including cessation of funds. A temporary assignment will generally not exceed three (3) years.

5. Temporary Intern or Apprentice Appointment:

Employees in this category serve in an intern or apprentice capacity for generally up to three (3) years. Some City fringe benefits may be

provided. Temporary intern or apprentice employees are subject to termination by the Division Manager at any time with or without cause.

6. Seasonal Appointment:

Employees in this category are those appointed for a specified period of time, normally a designated season. Seasonal classifications are listed in the Hourly and Seasonal section of the annual pay plan.

Seasonal employees shall be paid at an hourly rate and are not eligible for any City fringe benefits unless mandated by law.

Employees in this category are subject to termination by the Division Manager at any time with or without cause. Seasonal employees will be terminated at the end of each season.

7. Instructor Appointment:

Employees in this category are those appointed to provide specific instructional activities conducted on behalf of the City on a part-time, periodic or occasional basis. Instructor classifications are listed in the Hourly and Seasonal section of the annual pay plan. Instructor positions are ongoing based on the needs of the City. An Instructor's work is part-time, scheduled work. Supervisors may limit the time frame for the instructor employment based on class schedules or recreation program periods. Employees in this category shall be paid on an hourly basis and are generally not eligible for City fringe benefits unless mandated by law. Employees in this category are subject to termination by the Division Manager at any time with or without cause.

8. Substitute Appointment:

Employees in this category are those appointed to provide services working part-time or full-time, occasional work on a "substitute" as needed or on-call basis, to fill in for absences, staffing shortages, or workload peaks. Substitute positions are ongoing based on needs of the City. The City may limit the number of hours a Substitute employee may work per year. Substitute employees shall be paid on an hourly basis and are generally not eligible for City fringe benefits unless mandated by law. Employees in this category are subject to termination by the Division Manager at any time with or without cause.

9. Hourly Appointment:

Employees in this category are appointed to provide services on an hourly basis in specifically designated areas and work an intermittent schedule with no defined number of hours. This classification is specified in the Hourly and Seasonal section of the annual pay plan. Hourly positions are ongoing based on the needs of the City. The City may limit the number of hours an Hourly employee may work per year. Employees shall be paid an hourly rate and are generally not eligible for City fringe benefits unless mandated by law. Employees in this category are subject to termination by the Division Manager at any time with or without cause.

10. Acting Assignment:

A short-term assignment given to an employee when a vacancy occurs or because of an extended absence, which will last longer than one hundred sixty (160) consecutive hours (prorated for part-time). An employee may be selected for the assignment without a formal selection process. An acting assignment may also be a temporary increase in hours/FTE in the same pay grade. In compliance with the State of Colorado's Equal Pay for Equal Work Act, an acting assignment shall not exceed six (6) months. At the end of the acting assignment, the employee shall be reinstated to their previous job title, pay, and FTE status. Any step or merit increases that would have occurred during the short-term assignment will be processed at the end of the assignment. Approval by a Division Manager or higher is required.

Employees selected for an acting assignment will be paid within the pay range of the acting position. Generally, acting employees will receive up to a five percent (5%) pay increase, or whatever increase is necessary to pay the employee within the acting pay range, if the bottom of the new pay range requires an increase greater than five percent (5%). Additional compensation will be evaluated on a case by case basis in partnership with Human Resources. Benefits will not change unless there is a change to the employee's exemption status and/or FTE, in which case, benefits will correspond to the acting exemption status and/or FTE.

Commissioned Fire employees, please refer to the current Fire Collective Bargaining Agreement on Acting and Provisional Assignments.

11. Interim Appointment:

A temporary appointment to a vacant position after a formal selection process. In compliance with the State of Colorado's Equal Pay for Equal Work Act, all employees shall be eligible to compete for interim opportunities. The assignment may last longer than six (6) months. At the end of the Interim Appointment, the employee shall be reinstated to their former grade and job title (if applicable). The employee may be allowed, by the Human Resources Director, or Designee, to credit the time served in an interim appointment toward completion of the probationary period, should the interim employee be selected to the position immediately subsequent to the interim appointment. Any step or merit increases that would have occurred during an interim assignment will be processed. Approval by a Division Manager or higher is required.

Employees selected for an interim assignment will be paid within the pay range of the interim position. Generally, interim employees will receive up to a five percent (5%) pay increase, or whatever increase is necessary to pay the employee within the interim pay range, if the bottom of the new pay range requires an increase greater than five percent (5%). Additional compensation will be evaluated on a case by case basis in partnership with Human Resources. Benefits will not change unless there is a change to the employee's exemption status and/or FTE. Based on the duration of the interim appointment, interim employees may be eligible for pay increases according to the City's regular merit and pay step increase schedules. After six (6) months or more in an interim position, the employee may be eligible for additional benefits of the position, excluding any increase to or addition of severance pay.

Commissioned Fire employees, please refer to the current Fire Collective Bargaining Agreement on Acting and Provisional Assignments.

12. Acting Assignment – Fire Commissioned:

This is outlined in the current Fire Collective Bargaining Agreement.

13. Provisional Assignment – Fire Commissioned:

This is outlined in the current Fire Collective Bargaining Agreement.

14. Emergency Appointment:

In an emergency, to prevent undue delay or serious interferences with the provision of necessary public services, a Department Director may make emergency appointments for a period not to exceed ninety (90) calendar days. Successive emergency appointments involving the same employee shall not be made. Emergency appointments may be made without regard to the formal selection provisions of these rules. Approval of the Human Resources Director, or Designee, must be obtained prior to an emergency appointment. Emergency appointed employees are not eligible for any City fringe benefits unless mandated by law.

15. Deputy City Managers, Department Directors, and Division Managers Appointment:

Deputy City Managers, Department Directors, and Division Managers positions receive salaries within the parameters of the existing pay plan. Deputy City Managers, Department Directors, and Division Managers are entitled to the fringe benefits approved by City Council.

Deputy City Managers, Department Directors, and Division Managers shall be subject to termination at the discretion of the City Manager, or Designee. Such employees who are involuntarily separated shall be eligible for severance pay as determined by length of service and position as provided below, except that in the event that the employee is terminated because of the employee's conviction of any illegal action, the City has no obligation to provide severance compensation. Deputy City Managers, Department Directors, and Division Managers do not have appeal rights to the Personnel Board.

a) Deputy City Managers:

Deputy City Managers will be granted six (6) months of full pay and benefits upon involuntary separation.

b) Department Directors:

Department Directors will be granted six (6) months of full pay and benefits upon involuntary separation.

c) Division Managers:

Division Managers will be granted three (3) months of full pay and benefits upon involuntary separation.

16. Short-Term Disability Appointment:

An employee who is appointed to this category is receiving short-term disability pay and has an authorized medical professional certification that they are unable to return to work.

**(BB) Lateral Transfer:**

At the City's option, a position may be filled by transferring an employee from one position to another of equal pay status. Intradepartmental transfers must be approved by the Human Resources Director, or Designee, and affected Department Directors. A transferred employee's anniversary date may be revised. The City Manager, or Designee, may initiate the interdepartmental transfer of an employee, with or without the consent of the employee, if the City Manager, or Designee, deems it to be in the best interest of the City. Reasons for a transfer may include, but are not limited to, situations where an employee's position in the City organization could potentially represent a conflict of interest as a result of personal, financial, or business connections outside of the organization, potential layoff, position reclassification, reasonable accommodations pursuant to the American's with Disabilities Act, or changing staffing demands in the organization. Such a transfer would take precedence over other procedures in these rules and may not be subject to advertising requirements.

A Department Director may initiate a transfer of an employee within the department, with or without the consent of the employee, if the Department Director deems it to be in the best interest of the City or the employee, and the transfer is reviewed by the Human Resources Director, or Designee, in advance of the intended action.

## **VIII. Probation**

### **(A) Objective of Probation:**

The probationary period shall be regarded as an integral part of the selection process and shall be utilized for closely observing the employee's work, for overseeing the employee's adjustment to his/her new position, and for dismissing any employee who is determined by the Department Director not to be suited or appropriate in the position for which the employee was hired. If there is doubt about the probationary employee's appropriateness or suitability for City work or ability to perform the work or meet the City standards, the probationary employee in question should be dismissed. Probationary employees are subject to termination at any time during the probation period.

### **(B) Duration of Probation:**

Employees filling regular or part-time regular authorized non-exempt or exempt positions, with the exception of some Police and Fire employees and "at will" employees, either through an original appointment or a re-classification as a result of a reduction in force, shall be required to serve a normal probationary period of up to twelve (12) months. The probationary period may be reduced or extended in six (6) month increments to a maximum of twelve (12) additional months upon written request of the Department Director, or Designee, and concurrence of the Human Resources Director, or Designee. Police and Fire employees who are required to complete an academy at the beginning of employment, shall be on probation through the duration of the Police or Fire Academy and for an additional twelve (12) months from the date of academy graduation.

All regular or part-time regular employees who are promoted or transferred into a different classification will typically be required to serve a probationary period of up to six (6) months. The probationary period for promoted and transferred employees may be waived, reduced, or extended upon written request of the Division Manager and concurrence of the Human Resources Director, or Designee. Reasons for a reduction in the probationary period shall include, but not be limited to, the determination by the Division Manager that adequate time has elapsed to fully assess the qualifications and abilities of the employee. Reasons for extension of the probationary period shall include, but not be limited to, below standard job performance, excessive absence, poor attitude toward work, non-adjustment to City work environment, or inability on the part of the supervisor to adequately assess the employee's suitability for the position. Any period of employment under a temporary appointment may be



counted as part of the probationary period at the discretion of the Human Resources Director, or Designee, where the temporary service is applicable to the position being filled and where there is no break between temporary and probationary employment.

The probationary position will end upon completion of the designated probationary period and when the correlating Personnel Action Form is approved by the Division Manager. Probationary employees shall also be notified in writing from their supervisor or Division Manager when their probationary period will be extended or when they will not attain regular status upon completion of the designated probationary period. A copy of this notification shall be sent to the Human Resources Director, or Designee.

**(C) Dismissal During Probation:**

At any time during the probationary period, the Department Director may dismiss an employee if, after the employee has an opportunity to respond to the reasons for the dismissal in a pre-disciplinary meeting, the Department Director determines that the dismissal is appropriate. Prior to taking the dismissal action, the Department Director shall consult with the Human Resources Director, or Designee, and a City Attorney's Office representative. The official notification of removal stating the reasons for dismissal shall be provided to the employee by the Department Director. Dismissal during the probationary period is not appealable to the Personnel Board.

**(D) Evaluation During Probation:**

Prior to the completion of the probationary period, the Division Manager, or other supervisor should schedule a review with the probationary employee. The primary purpose for this review shall be to inform the employee of their progress and to discuss the employee's performance.

The review should also be used to encourage the employee regarding any satisfactory or superior performance and to discuss any objectives that the employee should strive to achieve. Non-exempt probationary employees ordinarily are reviewed approximately six (6) months after the probationary appointment and then again at twelve (12) months of employment. Thereafter, reviews are generally done on a periodic basis as determined by the supervisor, in addition to, an annual review as determined by the City.

## **IX. Work Policies and Leave Provisions**

### **(A) Hours of Work:**

Hours worked and leave taken applies to both exempt and non-exempt employees to provide public accountability. The standard work period shall be established by departmental rules. Schedules outside the normal FLSA work period guidelines shall be reviewed by the Human Resources Director, or Designee. Supervisors may adjust work schedules as needed.

Non-exempt employees who are working during unscheduled hours must obtain authorization in advance from their supervisor. This work includes accessing emails or other information remotely via a computer or other electronic device.

### **(B) Attendance:**

Employees shall be expected to be in attendance and on time at their work in accordance with these rules and departmental rules. However, non-exempt employees should not begin working prior to their scheduled work time and should stop working at the end of their work period, unless otherwise approved by the employee's supervisor. All departments shall maintain accurate daily records of non-exempt employee attendance and hours of work, and shall provide these records to the Finance Department and the Human Resources Department as required.

### **(C) Rest Breaks:**

A supervisor may allow employees to take two (2) fifteen (15) minute rest breaks at approximately the midway point of each half of their daily working schedules, depending on the work load. Rest breaks will be adjusted for shifts of less than eight (8) hours. These breaks are to be taken in the immediate vicinity of the work site and at a time that shall not interfere with assigned duties, as determined by a supervisor. Rest breaks shall not be considered to accumulate if they are not taken and shall not be used to shorten the normal work period.

### **(D) Lunch Breaks:**

Employees working more than five (5) consecutive hours per shift shall be allowed an uninterrupted and duty-free meal period of a one-half (½) to one (1) hour duration. Such meal periods, to the extent practical, shall be at least one (1) hour after the start, and one (1) hour before the end, of the shift as determined by department procedures and schedules. The time allotted for lunch breaks shall be determined by the supervisor and shall include any travel time to and from the work site.

The lunch break is in addition to normal working hours and is not to be considered time worked for pay purposed unless required by FLSA. At the discretion of the Department Director, employees working in emergency services may be considered on duty for the full shift and may not be required to take meal breaks.

**(E) Mandatory On-Call Duty:**

An employee may be required by the employee's supervisor to remain on-call to return to work in case of an emergency or if the workload requires it. Non-exempt employees may be eligible to receive on-call pay at one and a half (1 ½) hours of pay for every twelve (12) hours of this mandatory on-call duty. To be eligible for on-call pay, an individual is required to be accessible by means of a previously designated telephone number or pager and be so near the worksite that they can respond within a specified time limit after being called, as determined by the operational needs of the department. When an employee is on mandatory on-call duty and is actually called in for work, the employee will receive compensation for the hours worked and on-call pay for those hours that the employee remained on standby for work detail but was not called in. On-call pay is not provided for hours for which the employee is receiving regular or overtime compensation.

**(F) On-Call Status:**

Any employee may be required to carry a mobile communication device and asked to respond to work related communication. Exact response time shall be determined by the department based on operational needs. If a non-exempt employee is called in to work in this situation, they will be compensated with overtime pay for those hours actually worked outside of their normal work schedule.

**(G) Healthy Families and Workplaces Act Accrual of Leave:**

All benefited and non-benefited employees shall be provided with paid sick leave as defined by the Healthy Families and Workplaces Act (HFWA). Accruals and use of leave will meet and/or exceed the requirements as defined by the Act.

*Accrual of Leave for Non-Benefited Employees*

Non-benefited employees will accrue leave based on hours worked, with a maximum number of allowable hours accrued each year.

1. Employees will accrue one (1) hour of paid sick leave for every thirty (30) hours worked.

2. An employee is not entitled to earn or use more than forty-eight (48) hours of paid sick leave each year.
3. Up to forty-eight (48) hours of paid sick leave that is accrued in a year may be carried over and used in a subsequent year, however the City is not required to allow the employee to use more than forty-eight (48) hours of paid sick leave in a year.
4. An employee begins to accrue paid sick leave when employment begins and may use the leave as it is accrued.
5. Unused paid sick leave carries no cash value when an employee leaves the City.
6. If an employee separates from the City and is rehired by the City within six (6) months, the City will reinstate any paid sick leave that the employee has accrued but not used during the employee's previous employment with the City.
7. At the City's discretion, an employee may be allowed an advance of paid sick leave in advance of the accrual in an emergency situation and with the approval of the Division Manager and Human Resources Director, or Designee.
8. If an employee has both a benefited and non-benefited position, they will receive Sick Leave in their benefited position and the HFWA accrual for their non-benefited position.

*Accrual of Leave for Benefited Employees*

Benefited employees receive leave benefits as outlined in the City's Leave policy and will accrue hours each pay period pursuant to this policy based on years of service and FTE. The City's leave policies meet and/or exceeds the accrual requirements and use of leave as defined by the Healthy Families and Workplaces Act, and no additional leave will be granted.

**(H) Vacation Leave:**

Vacation accrual and carryover amount will be prorated based on benefited FTE. Vacation Leave accrued shall be in working hours upon completion of each full pay period. The amount of Vacation Leave to be charged shall be determined by adding, to the nearest quarter hour, the total working hours absent. Accruals continue throughout the year. No more than two hundred eighty (280) hours may be carried over each year. For firefighting and

emergency medical personnel working an average of one hundred twelve (112) hours in a two (2) week period, no more than three hundred ninety-two (392) hours may be carried over each year.

Employees are eligible to take paid or unpaid leave in compliance with State law as outlined in the “Parental Involvement in K-12 Education Act” of 2009. Up to eighteen (18) hours per academic year, with a maximum of six (6) hours a month, may be taken as paid or unpaid leave for the purpose of academic activity, parent teacher conference, special education services, dropout prevention, attendance, truancy, and disciplinary issues, and does not apply to extra-curricular and sporting events. Vacation Leave shall be used for leave hours not qualified for Sick Leave, Bereavement Leave, or other leaves as outlined in this section.

**(I) Vacation Leave Accrual Rates:**

The following schedules shall be used to calculate the amount of Vacation Leave accruing to each employee, except firefighting and emergency medical personnel working an average of one hundred twelve (112) hours in a two (2) week period, based on years of continuous municipal service:

Years of Continuous Municipal Service	Accrual Rate Hours Per Pay Period	Accrual Rate Hours Per Year
Less than 5	5.45	142
5-10	6.37	166
10 – 15	7.29	190
15 – 20	8.21	214
Over 20	9.13	238

The following schedules shall be used to calculate the amount of Vacation Leave accruing to each firefighting or emergency medical personnel required to work an average of one hundred twelve (112) hours in a two (2) week period based on years of continuous municipal service:

Years of Continuous Municipal Service	Accrual Rate Hours Per Pay Period	Accrual Rate Hours Per Year
Less than 5	7.63	199
5-10	8.90	232
10 – 15	10.20	266
15 – 20	11.47	299
Over 20	12.77	333

**(J) Leave Request and Approval:**

Any employee wishing to use leave must obtain prior approval from the employee's supervisor. In addition, if an employee takes more than four (4) consecutive weeks of leave they must give at least thirty (30) days' notice to their supervisor before the leave and must continue employment at least thirty (30) days beyond their return to work. If the circumstances surrounding the absence make prior notification and approval impractical, e.g. illness, off-the-job injury, or unusual child care emergencies, then the employee shall make every effort to notify the supervisor no later than thirty (30) minutes prior to the normal scheduled starting time. Departments may establish earlier notification requirements, should unique work groups needs necessitate additional lead time notice. Upon notification, the supervisor may grant leave if determined that the workload demand is manageable with the absence of the employee. In addition, if an employee is on leave and their medical circumstances change, the employee must notify their supervisor and Human Resources immediately of their change in status. Each situation will be evaluated on an individual basis.

All grants of leave must be accurately reported on time sheets.

**(K) Annual Vacation Leave Cash-Out:**

Eligible employees may cash-out, or convert annually into a Section 457 plan, up to forty-eight (48) hours of their accrued but unused Vacation Leave at one hundred percent (100%) of their current rate of pay. Eligible employees who used less than forty-one (41) hours of Sick Leave within the calendar year may cash-out, or convert annually into a Section 457 plan, up to an additional thirty-two (32) hours of their accrued but unused Vacation Leave at one hundred percent (100%) of their current rate of pay. Eligible firefighting and emergency medical personnel working an average of one hundred twelve (112) hours in a two (2) week period who used less than seventy-three (73) hours of Sick Leave within the calendar year may cash-out, or convert annually into a Section 457 plan, up to an additional thirty-two (32) hours of their accrued but unused Vacation Leave at one hundred percent (100%) of their current rate of pay. The maximum number of Vacation Leave hours that may be cashed-out, or converted into a Section 457 plan, is eighty (80) hours per year.

**(L) Healthy Families and Workplaces Act Use of Leave:**

*Use of Leave for Benefited and Non-Benefited Employees*

Pursuant to the Colorado Healthy Families and Workplaces Act:

1. An employer shall allow an employee to use the employee's accrued paid sick leave to be absent from work when:
  - a) The employee:
    - (i) Has a mental or physical illness, injury, or health condition that prevents the employee from working;
    - (ii) Needs to obtain a medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition;
    - (iii) Needs to obtain preventative medical care; or
    - (iv) Needs to grieve, attend funeral services or a memorial, or deal with financial and legal matters that arise after the death of a family member
  - b) The employee needs to care for a family member who:
    - (i) Has a mental or physical illness, injury, or health condition;
    - (ii) Needs to obtain a medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or
    - (iii) Needs to obtain preventative medical care;
  - c) The employee or the employee's family member has been the victim of domestic abuse, sexual assault, or harassment and the use of leave is to:
    - (i) 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 the domestic abuse, sexual assault, or harassment;

- (ii) Obtain services from a victim services organization;
    - (iii) Obtain mental health or other counseling;
    - (iv) Seek relocation due to the domestic abuse, sexual assault, or harassment; or
    - (v) 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;
  - d) Due to a public health emergency, a public official has ordered closure of:
    - (i) The employee's place of business; or
    - (ii) The school or place of care of the employee's child and the employee needs to be absent from work to care for the employee's child.
  - e) The employee needs to care for a family member whose school or place of care has been closed due to inclement weather, loss of power, loss of heating, loss of water, or other unexpected occurrence or event that results in the closure of the family member's school or place of care; or
  - f) The employee needs to evacuate the employee's place of residence due to inclement weather, loss of power, loss of heating, loss of water, or other unexpected occurrence or event that results in the need to evacuate the employee's residence.
2. An employer shall allow an employee to use paid sick leave upon the request of an employee. The request may be made orally, in writing, electronically, or by any other means acceptable to the employer. When possible, the employee shall include the expected duration of the absence. An employer may provide a written policy that contains reasonable procedures for the employee to provide notice when the use of paid sick leave taken under this section is foreseeable. An employer may not deny paid sick leave to the employee based on noncompliance with such a policy.



3. An employee must use paid sick leave in hourly increments unless the employee's employer allows paid sick leave to be taken in smaller increments of time.
4. An employer shall not require, as a condition of providing paid sick leave under this section, an employee who uses paid sick leave to search for or find a replacement worker to cover the time during which the employee is absent from work.
5. When the use of paid sick leave taken under this section is foreseeable, the employee shall make a good-faith effort to provide notice of the need for paid sick leave to the employee's employer in advance of the use of paid sick leave and shall make a reasonable effort to schedule the use of paid sick leave in a manner that does not duly disrupt the operations of the employer.
6. Notwithstanding Colorado Healthy Families and Workplaces Act section 8-13.3-405(4)(b), for paid sick leave of four or more consecutive work days, an employer may require reasonable documentation that the paid sick leave is for a purpose authorized by this section.

*Paid Leave During a Public Health Emergency*

In the event a public health emergency is declared, the City will make available additional leave to all employees for the purposes set forth in the Act. This leave will not be deducted from the employee's Vacation Leave bank for benefited employees or from the HFWA accrued leave for non-benefited employees.

**(M) Sick Leave:**

This leave is provided to all benefited employees at the beginning of the year and is limited to one hundred twenty (120) hours. For firefighting and emergency medical personnel working an average of one hundred twelve (112) hours in a two (2) week period, Sick Leave is provided at the beginning of the year and is limited to one hundred sixty-eight (168) hours. Sick Leave is prorated based on benefited FTE. For new employees, Sick Leave will also be prorated by benefited hire date during their first year. These hours carry no cash value and do not roll into the next year. Sick Leave may be used for any reason outlined in the Colorado Healthy Families and Workplaces Act as defined in this section.

Employees may be required to have a duly Licensed Health Care Provider sign an excuse for any absence for more than forty (40) hours prorated based on FTE, or when deemed appropriate by the Division Manager or

the Human Resources Director, or Designee. Firefighting and emergency medical personnel working an average of one hundred twelve (112) hours in a two (2) week period may be required to have a duly Licensed Health Care Provider sign an excuse for any absence for more than forty-eight (48) hours, or when deemed appropriate by the Division Manager or the Human Resources Director, or Designee.

**(N) Payment for Unused Vacation Leave:**

Upon separation, benefited employees shall receive full payment for Vacation Leave up to two hundred eighty (280) hours prorated based on benefited FTE. Upon separation, firefighting and emergency medical personnel working an average of one hundred twelve (112) hours in a two (2) week period shall receive full payment for Vacation Leave up to three hundred ninety-two (392) hours. Leave shall not be authorized during the last two (2) weeks of employment unless waived by the Department Director or City Manager, or Designee. Any absence will be charged to Vacation Leave hours unless authorized by the Human Resources Director, or Designee.

Unused leave accrued by non-benefited employees under the Healthy Families and Workplaces Act carries no cash value when an employee separates employment from the City. If a non-benefited employee separates from the City and is rehired by the City within six (6) months, the City will reinstate any paid sick leave that the employee has accrued but not used during the employee's previous employment with the City.

**(O) Holiday Leave:**

All benefited employees are allowed time off for holidays and all designated holidays are associated with facility closures. Each holiday is worth ten (10) hours for full-time benefited employees and fourteen (14) hours for firefighting and emergency medical personnel working an average of one hundred twelve (112) hours in a two (2) week period. Part-time employees who receive benefits shall receive a prorated number of Holiday Leave hours based on their authorized FTE.

*Designated Holidays:*

1. The first (1st) of January – New Year's Day
2. The third (3rd) Monday of January – Martin Luther King, Jr. Day
3. The third (3rd) Monday of February – Presidents' Day
4. The last Monday of May – Memorial Day
5. The fourth (4th) of July – Independence Day
6. The first (1st) Monday of September – Labor Day

7. The eleventh (11th) of November – Veterans Day
8. The fourth (4th) Thursday of November – Thanksgiving Day
9. The fourth (4th) Friday of November – Day after Thanksgiving Day
10. The twenty-fifth (25th) of December – Christmas Day

Holidays falling on a Saturday shall be observed on the preceding Friday; holidays falling on a Sunday shall be observed on the following Monday. Holiday availability and usage will be tracked in a separate Holiday Leave Bank. At the beginning of each year, employees will receive ten (10) hours for each of the ten (10) holidays listed above, which equates to one hundred (100) hours. These hours are placed in the employee's "Holiday Leave Bank" and can be used throughout the year in which they occur. Employees may not use more than the one hundred (100) hours of Holiday Leave granted each year. Unused Holiday Leave has no cash value and will not be carried over into the next year. Additional Holiday Leave hours will not be granted if an employee uses them before the holiday occurs. With prior supervisor approval, employees may work the holiday or use available paid or unpaid leave. At the time of separation, the Holiday Leave hours and Holiday Leave Bank will be evaluated. Employees will be allowed to use Holiday Leave hours for the holidays that have occurred at the time of separation. All Holiday Leave hours used in advance will need to be paid back on the last check.

Non-exempt employees who are required and/or have prior approval from their supervisor to work on a City Designated Holiday on the actual day of the holiday, will be compensated at a rate of one and one half (1.5) times the employee's regular rate of pay. Police and Fire personnel covered by a Collective Bargaining Agreement will follow their established agreements.

In addition to the ten (10) designated holidays, employees shall be allowed two (2) Floating Holidays. The Floating Holidays are available at the beginning of the year and may be used any time during the calendar year with supervisory approval. Floating Holiday Leave has no cash value.

Any special holidays that may be proclaimed during the year by City Council will be in addition to this holiday schedule. For the full policy, please refer to the City's Administrative Memos on the Intranet.

**(P) Clinic Leave:**

Clinic Leave is authorized if the employee is scheduled and working. Exceptions may exist based on operations and supervisory approval.

**(Q) Major Illness Leave:**

Any serious health condition, major illness, psychological disorder, medical operation, pregnancy or off-the-job injury that necessitates employee absence in excess of eighty (80) working hours may be charged to Major Illness Leave (MIL). Only the amount of leave that is in excess of eighty (80) hours may be charged against Major Illness Leave to a maximum of four hundred eighty (480) hours in any one (1) twelve (12) month period, not to exceed nine hundred sixty (960) hours in a three (3) year period. Pregnancy Leave is considered Major Illness Leave, but is not included in this nine hundred sixty (960) hours maximum over a three (3) year period.

For firefighting and emergency medical personnel required to work an average of one hundred twelve (112) hours in a two (2) week period, any serious health condition, major illness, psychological disorder, medical operation, pregnancy or off-the-job injury that necessitates employee absence in excess of one hundred twelve (112) working hours may be charged to Major Illness Leave; only the amount of leave that is in excess of one hundred twelve (112) hours may be charged against Major Illness Leave to a maximum of six hundred seventy-two (672) hours in any one (1) twelve (12) month period, not to exceed one thousand three hundred forty-four (1,344) hours in a three (3) year period. Pregnancy Leave is considered Major Illness Leave, but is not included in this one thousand three hundred forty-four (1,344) hours maximum over a three (3) year period.

The work hours required to reach the Major Illness Leave threshold and the Major Illness Leave hours need not be consecutive, as long as all of the hours of absence are the direct result of one injury or illness.

In order to qualify for Major Illness Leave, a duly Licensed Health Care Provider must sign a statement for the absence verifying that the employee was unable to satisfactorily perform assigned duties. In addition, a family and medical leave request form must be completed. The statement and form should be forwarded to the Human Resources Director, or Designee. Employee may be required to work in a Limited Duty capacity if a return to work with limitations is authorized by a duly Licensed Health Care Provider. At any time, the Human Resources Director, or Designee, may require the employee to submit to an examination by a City-hired Licensed Health Care Provider to verify that the employee is unable to satisfactorily perform required duties.

Vacation Leave shall accrue during the time in which an employee is on Major Illness Leave.

If a holiday occurs during the time an employee is under approved Major Illness Leave, the hours will be charged to Major Illness Leave and not Holiday Leave.

Employees may be required to submit an authorization to return to work after an extended absence. This statement from a duly Licensed Health Care Provider will be utilized to certify that the employee is able to perform the essential functions of the position or list any restrictions or accommodations necessary for the City to consider in determining ability to return to work.

Family and Medical Leave Act (FMLA) leave runs concurrently with Major Illness Leave (MIL) and the two (2) weeks prior to MIL. FMLA leave also runs concurrently with On-the-Job Injury or Workers' Compensation. In addition, both On-the-Job Injury or Major Illness Leave cannot be used for the same injury or illness.

Performance reviews and pay rate increases may be delayed at the supervisor's request due to employee absence on Major Illness Leave.

**(R) Pregnancy Leave:**

Major Illness Leave for pregnancies shall be six (6) weeks or two hundred forty (240) hours after the eighty (80) hours of Vacation or Sick Leave requirement has been achieved, for a total of eight (8) weeks. Leave will be prorated based on FTE. Pregnancy Leave will follow the rules of Major Illness Leave. In situations where, additional leave does not qualify under the Major Illness Leave provisions, Vacation and/or Sick Leave may be requested by the employee and approved by the Division Manager if the additional leave hours are available.

Firefighting, emergency medical personnel, sworn Police Officers, and any employee in a physically demanding position may be moved to a limited duty assignment upon written verification of pregnancy from a duly Licensed Health Care Provider and post-delivery based on operational need and supervisor approval. The limited duty assignment prior to birth may not be included in the one (1) year period as outlined in the Limited Duty Assignment section. All other benefited employees may be assigned to limited duty assignments, at any time during their pregnancy, based on medical need and with written authorization and documentation from a duly Licensed Health Care Provider or at discretion of the Human Resources Director, or Designee.

**(S) Bereavement Leave:**

Bereavement Leave is up to forty (40) hours per incident. Bereavement Leave is separate from Vacation or Sick Leave. Firefighting and emergency medical personnel working an average of one hundred twelve (112) hours in a two (2) week period will receive Bereavement Leave for up to forty-eight (48) hours. This leave may be extended based on supervisor approval and can be supplemented with Sick or Vacation Leave. Factors regarding the duration are: out-of-town travel, requirements of employee to handle funeral arrangements, and relationship of employee to deceased. The City is authorized to investigate any usage of Bereavement Leave.

**(T) Family and Medical Leave Act Provisions (FMLA):**

Employees who have been employed with the City for at least twelve (12) months and who have worked at least one thousand two hundred fifty (1,250) hours for the City during the previous twelve (12) month period are entitled to Family and Medical Leave benefits in accordance with the Family and Medical Leave Act (FMLA) of 1993.

FMLA benefits shall consist of twelve (12) work weeks of leave during any twelve (12) month period for one (1) or more of the following reasons:

1. For birth and care of the newborn child of an employee;
2. For placement with the employee of a child for adoption or foster care;
3. To care for an immediate family member (spouse, civil partner, child or parent) with a serious health condition; or,
4. To take medical leave when the employee is unable to work because of a serious health condition.

FMLA qualifying leave shall be charged against Vacation Leave, Sick Leave, Major Illness Leave, or On-the-Job Injury Leave, to the extent the employee is entitled to use such leave. After all leave benefits have been exhausted, remaining FMLA Leave shall be continued as leave without pay, except in the case of an accepted Workers' Compensation claim. At any time, the Human Resources Director, or Designee, may require the employee to submit to an examination by a City-hired Licensed Health Care Provider to verify that the employee is unable to satisfactorily perform required duties.

Whenever the need for FMLA Leave under paragraph one (1) or two (2) is foreseeable based on an expected birth or placement, the employee shall provide the employee's supervisor with not less than thirty (30) days' notice before the date the leave is to begin.

When an employee and the employee's spouse are both employed by the City, the aggregate amount of FMLA Leave for any birth, child placement or care for a seriously ill parent, shall be limited to twelve (12) work weeks of leave which they can split between them in any proportion.

Whenever the need for FMLA Leave under paragraph three (3) or four (4) is foreseeable based on planned medical treatment, the employee shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the employee's division and shall provide the employee's supervisor with not less than thirty (30) days' notice before the date the leave is to begin.

When FMLA Leave is charged as leave without pay, the employee shall be entitled to receive medical and dental coverage, group life, long-term disability and survivor income insurance, and accrual of municipal service during such leave period. The employee is responsible for payment of his/her portion of health insurance premiums during the leave without pay. Vacation Leave hours do not accrue while employee is on unpaid FMLA Leave status.

The military family leave provisions of the Family Medical Leave Act (FMLA) entitle eligible employees of covered employers to take FMLA leave for any "qualifying exigency" arising from the foreign deployment of the employee's spouse, son, daughter, or parent with the Armed Forces or to care for a service member with a serious injury or illness if the employee is the service member's spouse, son, daughter, parent, or next of kin.

FMLA Leave benefits shall be subject to the definitions and conditions in the Family and Medical Leave Act of 1993, or as amended.

**(U) Advances on Vacation Leave:**

The Human Resources Director, or Designee, may grant an advance of Vacation Leave in any amount to a maximum of eighty (80) hours or one hundred twelve (112) hours for firefighting and emergency medical personnel during any twelve (12) month period. In granting an advance of Vacation Leave, the Human Resources Director, or Designee, may consider pertinent facts, including, but not limited to, reason given for the advance,

good work habits, demonstrated reliability, conscientiousness, indications of previous leave abuse, and the best interest of the City.

An employee who wishes to have an advance on Vacation Leave must submit a request to the Division Manager who shall confer with the Human Resources Director, or Designee, about the circumstances related to the request. The Division Manager shall make recommendations to the Human Resources Director, or Designee. Any advance of Vacation Leave granted by the Human Resources Director, or Designee, shall be provided, in writing, to the employee with a copy kept on record. This is the only manner in which an employee shall be allowed Vacation Leave in excess of that which is actually accrued.

**(V) Absence Without Pay:**

Employees who have exhausted accrued Vacation Leave, or who do not qualify for any type of leave with pay under the provisions of this section and who are absent from work, shall not be paid for such absence unless specifically authorized, in writing, by the Human Resources Director, or Designee. Multiple occurrences of use of absence without pay shall be cause for disciplinary action up to and including dismissal.

**(W) On-the-Job Injury Leave and other Workers' Compensation Benefits:**

All employees receiving fringe benefits shall be granted leave with pay in the event of an injury incurred on-the-job that renders them incapable of performing their normal duties unless it can be shown that said injury occurred as the result of the carelessness or negligence of the injured employee. On-the-Job Injury (OJI) Leave shall be provided for a period not to exceed four hundred eighty (480) hours per injury. Firefighting and emergency medical personnel working an average of one hundred twelve (112) hours in a two (2) week period are granted six hundred seventy-two (672) hours of OJI Leave per injury. Any Fire employee working a forty (40) hour work week will be granted four hundred eighty (480) hours of OJI Leave per injury. Paid OJI Leave will not be provided when the injured employee has received compensation for the injury from any other benefit plan funded by the City. OJI Leave may terminate prior to the end of the four hundred eighty (480) / six hundred seventy-two (672) hours if any of the following occurs:

1. A ruling is made of permanent disability;



2. The Licensed Health Care Provider releases the employee to return to work in a Limited Duty capacity; or,
3. The employee is declared capable of performing the normal duties of the employee's position by a Licensed Health Care Provider.

If, prior to release for normal duties, it is determined by the Licensed Health Care Provider that the employee is capable of performing limited work assignments, the employee shall immediately report for duty under the conditions set forth in the Licensed Health Care Provider's certificate in accordance with Section IX.

Employees on paid OJI Leave must remain available so that they can be contacted by telephone or personally during their regular working hours, and so that they can return to work within one day if requested to do so. This means that an employee on OJI Leave may not consider the leave time as vacation or personal time. The employee must provide the manager with telephone numbers where they can be reached during regular working hours and must promptly return calls from the manager or Human Resources Department. In addition, the employee must obtain the prior permission of the manager and the authorized treating physician in writing and use accrued Vacation Leave in place of OJI Leave in order to be out of contact with their manager for longer than a single workday.

If a holiday occurs during the time an employee is under approved Injury Leave, the hours will be charged to OJI Leave and will not be charged to Holiday Leave. Family and Medical Leave Act (FMLA) leave runs concurrently with On-the-Job Injury or Workers' Compensation. In addition, both On-the-Job Injury or Major Illness Leave cannot be used for the same injury or illness.

In the event that an employee has exhausted the maximum hours of OJI Leave for a work-related injury, and is still unable to return to work in either a normal duty or limited assignment capacity in a regular position, the employee becomes eligible for compensation in accordance with the Colorado Workers' Compensation Act, C.R.S Section 8-42-105. The employee shall be eligible to receive the following benefits while receiving Workers' Compensation salary replacement benefits: employer portion of medical and dental premiums, life insurance benefits, survivor income benefits, long-term disability benefits, and continuation of municipal service. Employees may supplement Workers' Compensation and any disability pay with Vacation and/or Sick Leave to bring pay to one hundred percent (100%) of the employee's base pay. In the event that an employee is not able to return

to work due to an on-the-job injury, the provisions related to a layoff for medical reasons shall apply, see Section XII.

**(X) Limited Duty Assignment:**

A Limited Duty Assignment is a temporary task, project, function or group of temporary tasks, projects or functions that are generally less physically or mentally demanding and/or require less physical movement than an individual would be required to use during the course of performing the employee's usual and customary job functions.

A Limited Duty Assignment may be made available to employees who are temporarily unable to perform the physical or mental functions required by their regular job as a result of work or nonwork-related injury or illness. A Limited Duty Assignment shall be subject to the availability of a suitable assignment within the City and the departmental operational needs. Employees are required to work in a limited duty capacity if one is made available.

A release from the treating physician or Mental Health Care Provider detailing the employee's physical or mental restrictions shall be provided by the employee before an employee can be placed in any Limited Duty Assignment.

While in a Limited Duty Assignment, the specific tasks, functions, projects, or work hours may be altered as needed by the employee's supervisor, so long as, the restrictions provided by the employee's Health Care Provider are maintained.

A combination of Major Illness Leave, Injury Leave, Short-Term Disability Pay, and/or Limited Duty Assignment generally will not exceed a one (1) year period unless approved by the Human Resources Director, or Designee.

**(Y) Limits of Absence from Authorized Assignments:**

At any time during the absence or limited duty assignment, the employee may be required to have an examination by a City-hired Licensed Health Care Provider to verify the employee's ability to work.

Decisions relating to Major Illness Leave, Short-Term Disability Pay, Limited Duty Assignment, and Fitness for Duty Evaluations will be based on City-hired Licensed Health Care Provider recommendations.

Under appropriate circumstances, and at the request of the Department Director or Division Manager, the Human Resources Director, or Designee, may require a current employee to submit to a physical fitness test, psychological assessment, and/or a physical or mental examination by a qualified health care professional to re-certify that the employee is capable of performing the essential functions of the position.

A combination of Major Illness Leave, Injury Leave, Short-Term Disability Pay, and/or Limited Duty Assignment generally will not exceed a one (1) year period unless approved by the Department Director, or Designee, and the Human Resources Director, or Designee.

It is the responsibility of the employee to maintain physical and mental fitness for the position. It shall be cause for dismissal if the result of a physical or mental examination indicates that the employee is no longer capable of performing essential tasks of the position. While these leave types may be available to employees, employment may be terminated at any point the employee is unable to perform the essential functions of their position.

**(Z) Military Leave:**

Employees who are absent for military service and eligible for service under the Uniformed Services Employment and Reemployment Rights Act (USERRA) must request leave in writing or verbally. Written documentation for the proper authority specifying the dates of active service and confirmation that the service or training has been ordered or authorized must be submitted to Human Resources. For the full policy, please refer to the City's Administrative Memos on the Intranet.

**(AA) Jury Duty:**

All benefited employees shall be given time off, with pay, when performing jury duty in any municipal, county, state, or federal court. Hourly, temporary, instructor, substitute, or seasonal employees will be compensated for jury duty time in accordance with Article 71, Title 13 of the Colorado Revised Statutes. This statute provides for employers to pay regular wages not to exceed fifty dollars (\$50.00) per day for up to three (3) days of juror service during scheduled work hours. Other than mileage reimbursement, any regular or daily compensation received from the court shall be reimbursed to the City. Proof of jury duty and hours served must be provided.

**(BB) Witness Service:**

Witness service and court appearance within the scope of employment shall be compensated for time required for court appearance and preparation.

**(CC) Compensatory Time:**

Non-exempt employees may receive compensatory time in lieu of overtime pay in accordance with the following procedures.

If the employee wishes to be granted compensatory time for the additional hours worked and the supervisor agrees to this method of compensation, then the employee shall indicate this fact on the time sheet. As is the case with overtime hours, the employee should indicate the actual number of hours worked. The Finance Department will then convert the hours worked to compensatory time hours. An employee may use accrued compensatory time by indicating on the time sheet that the absence is to be charged to compensatory time.

Except as allowed below, no employee shall be permitted to accrue more than eighty (80) hours of compensatory time. If an employee has accrued the maximum number of compensatory time hours permitted, all overtime hours worked shall be compensated with overtime pay, regardless of whether the employee submits a request to receive compensatory time. If the compensatory time is not used within six (6) months of accrual, it will be paid. If compensatory time is cashed out for this reason, payment shall be made at the regular rate earned by the employee at the time the employee receives such payment. Upon transfer to an exempt position or separation from employment, an employee shall be paid for unused compensatory time at the average regular rate received by the employee during the last three (3) years or the final regular rate of the employee, whichever is higher. Other than these three (3) situations, compensatory time cannot be cashed out for pay.

Under no circumstances shall an employee be required to accept compensatory time instead of overtime pay. No employee shall be required to maintain a minimum balance of compensatory time. Compensatory time shall not be used for imposing or effecting disciplinary action.

Upon approval of the Department Director, or Designee, departments experiencing significant shifts in operational needs may extend the opportunity to employees to accrue up to one hundred sixty (160) hours of compensatory time to be utilized in a twelve (12) month period.

Any department, division, group or individual may be precluded from accumulating compensatory time if a Department Director determines that accumulation and use of compensatory time is not feasible or is not in the best interests of the City. If the Department Director makes this determination, written notice shall be provided to the Accounting Division in Finance. Such preclusion from the accumulation of compensatory time may last for an indefinite time period.

**(DD) Administrative Leave:**

In recognition of Deputy City Managers, Department Directors, Division Managers, and exempt employees' regular extra work hours; employees will receive thirty (30) hours of Administrative Leave. Deputy City Managers, Department Directors, Division Managers, the Assistant to the City Manager/Chief of Staff, and the City Clerk will receive ten (10) additional hours of Administrative Leave per year in recognition of their work schedules. Administrative Leave is prorated according to the employee's start date during the first (1st) year of employment. Department Directors have the latitude of providing all of their Division Managers and exempt employees with additional leave hour(s) in recognition of extraordinary work demands for that year.

Administrative Leave will be approved in advance within each department by the supervisor. Administrative Leave can be taken without explanation with the stipulation that it will be granted by the supervisor with consideration for departmental needs and priorities. Department Directors' Administrative Leave must be approved in advance by the City Manager, or Designee.

Administrative Leave does not accrue from year to year and has no cash value upon the employee's separation.

**(EE) New Employee Leave:**

All newly hired benefited employees will receive forty (40) hours of leave, prorated based on FTE, at the time of hire. Firefighting and emergency medical personnel who work an average of one hundred twelve (112) hours in a two (2) week period are granted fifty-six (56) hours of leave. New Employee Leave can be taken without explanation and with supervisor approval and consideration for departmental needs and priorities. Once the hours of leave have been exhausted, it will not be replenished. New Employee Leave has no cash value upon the employee's separation.

**(FF) Leave Without Pay:**

Regular employees may be granted a leave without pay for a period of time not to exceed ninety (90) calendar days upon approval of the Department Director. In determining whether or not a leave without pay shall be granted, a Department Director may consider pertinent facts including, but not limited to, reason given for requesting the leave without pay, good work habits, demonstrated reliability, conscientiousness, indications of previous leave abuse, and the best interests of the City. Leave without pay may be extended beyond this limit only upon the express written approval of the City Manager, or Designee. Leave without pay will include these benefits: employer portion of the medical and dental coverage, group life, Long-Term Disability, survivor income insurance, and continuation of municipal service. The employee does not accrue Vacation Leave during the leave without pay. Benefits may cease should the employee not pay their portion of premium or additional life insurance payment.

**(GG) Unauthorized Leave:**

All unauthorized absence from duty shall be cause for disciplinary action up to and including termination. However, such absence may be converted by the Division Manager to a subsequent grant of leave with or without pay where substantial extenuating circumstances are found to have existed.

If any employee fails to report to work without supervisor approval, or fails to return to work after the expiration of an approved absence, for a period of seven (7) calendar days or more, it shall be considered job abandonment and be cause for termination without any notice required under Section X (K) of these Policies and Rules. In such circumstances, the supervisor will make reasonable effort to contact the employee to ensure the employee's safety and wellbeing. The Human Resources Director, or Designee, may reverse any determination of job abandonment within thirty (30) days of the first unexcused absence where substantial extenuating circumstances are found to have existed.

**(HH) Short-Term Disability Pay:**

If an employee exhausts the Major Illness Leave available pursuant to these Rules due to nonwork-related illness or injury that continues to prevent the employee from returning to work, the employee will receive Short-Term Disability Pay. The employee shall receive payment for up to the same number of hours of leave as was available to the employee in the form of Major Illness Leave at sixty percent (60%) of the employee's base pay. An employee may supplement the Short-Term Disability benefit and any other Short-Term Disability Pay with Vacation and/or Sick Leave as long as the

total compensation does not exceed one hundred percent (100%) of base pay. Short-Term Disability Pay shall not continue past the time that the employee becomes eligible for Long-Term Disability compensation. Short-Term Disability Pay cannot be used intermittently. Short-Term Disability Pay due to nonwork-related illness or injury is subject to the same medical qualifications and verification as Major Illness Leave.

If an employee cannot perform the essential functions of the position after Short-Term Disability hours have been exhausted and the City is unable to provide suitable employment based on the medical restrictions, then the employee may be terminated.

Employees will continue to receive all employee benefits while on Short-Term Disability with the exception of Vacation Leave accrual.

Employees may be placed in a Short-Term Disability category of appointment if a duly appointed Health Care Provider has provided a statement that the employee will not be able to return to work. This category will be utilized to allow employees to receive Short-Term Disability benefits until they are eligible for Long-Term Disability coverage. Divisions may fill the vacated position once an employee is placed in the Short-Term Disability category of appointment.

**(II) Leave During Inclement Weather:**

It is the City's policy to keep City facilities open during regular business hours. Only in the most severe weather situation will the closing of City facilities be considered. However, it is understandable that some employees will miss their regularly scheduled hours because of inclement weather conditions. In these situations, employees may, with their supervisor's approval, take Vacation Leave for this absence.

**(JJ) Facility Closure(s):**

In the event of planned or unplanned City facility closure(s), employees who can work from home should do so. If an employee is unable to work from home, they should use the appropriate pay code as specified by Payroll for any missed time from work. Affected hours will not be deducted from the Vacation Leave bank when using the appropriate code. This code is purely for tracking purposes.

**(KK) Leave Sharing Program:**

The Municipal Code allows employees to voluntarily donate accrued but unused Vacation Leave to another employee of their choice who has

exhausted that employee's leave bank because of an emergency, or a related crisis situation, and when there has been no abuse of Vacation Leave by the recipient. The program does not apply to absences resulting from an on-the-job injury for which the employee is receiving Workers' Compensation benefits or to supplemental Short-Term Disability Pay.

Requests for initiating this program for a particular employee should be made to the Human Resources Director, or Designee, who shall determine if the employee's situation meets the eligibility criteria and will set an appropriate maximum limit. Leave donations will be subject to the following restrictions:

1. Only Vacation Leave that has already been earned may be donated;
2. The donation of such time shall be strictly voluntary;
3. The Human Resources Director, or Designee, shall be notified in writing of the amount of Vacation Leave donated by each employee so that accurate adjustments can be made to the Vacation Leave records of each employee, including the recipient of the Vacation Leave;
4. Vacation Leave shall be donated by the contributing employee to the recipient on an hour-for-hour basis with no fixed cash value associated with it;
5. Vacation Leave contributions shall start at a minimum of two (2) hours and continue in increments of at least whole hour increments;
6. The donor employee may receive no compensation from the recipient in return for donated leave;
7. If the event is FMLA qualifying, the leave allowed through Leave Sharing will run concurrently with FMLA; and,
8. The amount of leave authorized through Leave Sharing will not exceed four hundred eighty (480) hours or six hundred seventy-two (672) hours for firefighting and emergency medical personnel required to work an average of one hundred twelve (112) hours in a two (2) week period.



Donated leave shall be paid at the recipient's hourly rate and charged to the salary account of the recipient's department.

City employees who elect to donate unused leave must complete a "Leave Sharing Program" form, that can be found on the City's Intranet, which includes the signature and authorization by the donor.

In the event that the recipient employee does not need all of the leave hours donated, the unused donated leave hours will not be taken from the donor employee(s) leave bank(s). Donated leave will be transferred into the recipient's account on an as-needed basis using donations on a first-in, first-out basis. Unused hours will be returned to the original donor.

**(LL) Voting Time:**

Employees who wish to vote in an official local, county, state, or federal election may request up to two (2) hours of time off to vote, if the employee's work shift does not provide for at least three (3) consecutive or non-consecutive hours off during the time the polls are open. This time off during the work period must be requested in advance of the election day and the employee may be required to take the time necessary to vote either at the beginning or the end of a shift.

**(MM) Leave with Pay:**

The Department Director may place an employee on leave with pay status when warranted by extraordinary work-related circumstances.

**(NN) Volunteering:**

In order to comply with FLSA, employees may not volunteer for the City in a capacity that is similar to their paid position. Employees must get authorization from the Human Resources Director, or Designee, prior to volunteering in any capacity related to the City.

*Volunteer Leave:*

Full-time employees will be granted up to ten (10) hours of volunteer time off per calendar year. Part-time employees will be granted a prorated amount of volunteer time off per calendar year based on their authorized FTE. Employees who use Volunteer Leave should enter their volunteer hours into their timesheet under the designated leave code. Volunteer hours will not be deducted from the employee's Leave Banks upon use. Unused volunteer hours will not rollover to the next calendar year and carry no cash value. Advanced supervisor approval is required.

Employees are not allowed to participate in programs that practice discrimination, harassment, or ridicule against race, color, age, religion, sexual orientation, religious creed, national origin, political affiliation, mental/physical disability, and other legal protected classes listed under Title VII and the Colorado Anti-Discrimination Act. For the full policy, please refer to the City's Administrative Memos on the Intranet.

## **X. Employee Conduct**

### **(A) Personal Conduct:**

Employees shall always act in a responsible and safe manner which reflects favorably on the City.

### **(B) Personal Business:**

Personal business is discouraged during working hours. Personal business should be conducted either before or after work or during lunch breaks. Habitual conducting of personal business during working hours is cause for disciplinary action.

### **(C) Public Contact:**

Quality customer service is a key value and expectation in this organization. Employees shall treat all members of the public with courtesy, respect and consideration, regardless of how difficult the circumstances. It is the policy of the City to make every effort to be receptive to citizen comment and concerns, and to provide any reasonable amount of information or explanation upon request. All employees are deemed to be “ambassadors” of the City and should conduct themselves accordingly. When dealing with any complaints, employees shall remember that the matter is important to the complainant and it deserves a prompt and courteous response, regardless of the employee’s opinion of its merits.

### **(D) Knowledge of City Policies and Procedures:**

Any employee who provides policy or procedural information to the public shall be expected to be completely familiar with such policies or procedures and to be able to provide reasonable explanations for those policies or procedures. Supervisors are responsible for training and providing the proper information to employees on City policies.

### **(E) Outside Employment:**

Benefited employees may engage in outside employment providing it is not a conflict of interest, in no way interferes with the employee’s work for the City, and does not represent a conflict with applicable laws related to pay and work schedules. A request for authorization of outside employment shall be given to the Division Manager noting days and hours that will be worked, description of the business, and other relevant information that may be requested by the department. A copy of the request for authorization of outside employment shall be forwarded to the Human Resources Department when acted on by the Division Manager.

Employees are required to notify supervisors of additional employment within the City organization. Division Managers may deny employment or require an employee to terminate one (1) City position if it creates an ongoing overtime or work schedule conflict situation.

If the Division Manager determines that outside employment conflicts or interferes with the performance of assigned duties, or in the case of a second City position, it creates an ongoing overtime or work schedule conflict situation, the employee shall be required to terminate such employment or work. Failure to terminate such conflicting outside employment may result in disciplinary action.

**(F) Compensation from Outside Individuals or Organizations:**

Employees may not accept any payment from any outside individual or organization for service they perform in their capacities as employees of the City. This provision shall not prohibit any outside employment approved by the Division Manager under Section X.

**(G) Employee Political Activity:**

City employees are hereby restricted from actively participating in the municipal politics of the City, but shall not be otherwise restricted from engaging in their normal rights and responsibilities as citizens.

1. **Prohibited Political Activity:**

An employee shall not:

- a) Use any City resource in support of or in opposition to any issue or candidate;
- b) Distribute or display political stickers, buttons, or similar materials while in City uniform, during working hours at City facilities;
- c) Actively campaign for or against any issue or candidate during working hours or at City facilities;
- d) Actively campaign for or against any issue or candidate while wearing a uniform that identifies the employee as a City employee;

- e) Serve as an officer of any organization which has the primary purpose of promoting the candidacy of any person for City office;
- f) Directly solicit, receive, collect, handle, disburse, contribute, or account for assessments, contributions, or other funds in support of the candidacy of any person for City office;
- g) Actively participate in a fund-raising activity of a candidate for City office;
- h) Actively organize or manage the political campaign of a candidate for City office;
- i) Solicit votes in support of or in opposition to a candidate for City office;
- j) Drive voters to the polls on behalf of a candidate for City office;
- k) Endorse or oppose a candidate for City office in a political advertisement, broadcast, campaign literature, or similar material; or,
- l) Address a convention, caucus, rally, or similar gathering in support of or in opposition to a candidate for City office.

The foregoing restrictions shall not be construed as:

- (i) Limiting the political activity of a spouse or any family member of any employee;
- (ii) Including an employee's unintentional or unwitting participation in City Council campaign materials or election activities; or,
- (iii) "Friending," "following," or similar interactions with City Council and Mayoral candidates through social media sites such as Facebook, Twitter and LinkedIn, to the extent such interactions do not include any activity otherwise prohibited by this ordinance.

All employees are free to engage in political activity to the widest extent consistent with the restrictions imposed by law and this section, so long as any such activity is done in the employee's capacity as a private citizen and not in the capacity of a City employee. Subject to the limitations of subsection one (1) of this Section, each employee retains the right to:

- a) Register and vote in any election;
- b) Display a political yard sign, picture, sticker, badge, or button;
- c) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization;
- d) Be a member of a political party or other political organization and participate in its activities to the extent consistent with this ordinance;
- e) Attend a political convention, rally, fund-raising function, or other political gathering, including those of candidates for City office;
- f) Sign a political petition as an individual, other than a petition for the nomination or recall of a City Councillor or the Mayor;
- g) Expend personal funds, make contributions in kind, and use personal time to urge electors to vote in favor of or against any issue or candidate before the electorate, except any candidate for City office;
- h) Seek election to City office, provided that the employee resigns or takes formally authorized unpaid leave from City employment prior to any campaign activities being undertaken on his/her behalf or filing a nomination petition;
- i) Run for nomination or election as a candidate in any election not involving City government;
- j) Be politically active in connection with a charter or constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character; and,

k) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the public's confidence in the neutrality, efficiency, or integrity of the employee or the City government.

2. Supervisors:

No supervisor shall in any way coerce an employee to campaign for or against any candidate or issue, nor retaliate, intimidate, or discriminate against any employee for any political activity permitted by this ordinance.

3. Solicitation:

It shall be unlawful for a candidate for the office of City Councillor or Mayor to solicit knowingly, directly or indirectly, a City employee to contribute money or campaign for or against any candidate for the office of City Councillor or Mayor. This provision shall not prohibit coincidental contacts with City employees through mass mailings or distribution of literature.

**(H) Workplace Harassment and/or Discrimination:**

Workplace Harassment is any offensive, abusive or unwelcome conduct, verbal or physical, toward individuals based on a person's race, color, national origin, sex, gender identity, sexual orientation, age, religion, socioeconomic status, disability, political affiliation, marital status, or military veteran status. In compliance with applicable law, the City intends to provide a working environment free from harassment and/or discrimination of its employees. Discrimination occurs when an employee is being treated differently or less favorably in terms and conditions of employment than other similarly situated employees because of membership in a protected class as listed above.

Harassment, whether verbal, physical, or environmental, is unacceptable on or off duty and will not be tolerated; including settings such as business trips, conferences, or social events. Examples of offensive conduct include but are not limited to: insulting, degrading, threatening or otherwise offensive or hostile remarks, jokes or actions including racial or ethnic slurs; and negative epithets. Similarly, graffiti, posters, writings, gestures, other forms of communications or conduct disparaging or putting down any racial, minority, ethnic or religious group are strictly prohibited. The preceding list of misconduct is not all-inclusive, but is intended merely to illustrate some of the activities which the City's harassment policy prohibits.

The immediate supervisor is responsible for conduct between co-workers and the conduct of non-employees in the workplace where the supervisor has knowledge of or should have known of harassing conduct. This responsibility includes taking immediate action to report allegations of harassment and to correct such behavior.

The City of Westminster will not tolerate, condone, or allow harassment whether engaged in by another employee, a supervisor, or a non-employee who conducts business with the City. Harassment is extremely serious misconduct and may result in discipline, up to and including termination. Harassment may also subject the harasser to personal, legal, and financial liability. False statements of harassing behavior may also result in discipline, up to and including termination.

Sexual harassment on or off duty is specifically defined as any type of offensive conduct based on an individual's sex or gender identity whether or not the conduct is sexual in nature, where: firstly, submission to or rejection of this conduct by an individual is used as a factor in decisions affecting hiring, evaluation, promotion, or other aspects of employment; or secondly, this conduct unreasonably interferes with a person's employment or creates an intimidating, hostile, or offensive work environment. No employee shall make, as a condition of any person's employment, unwelcome sexual advances or requests for sexual favors, or other verbal or physical conduct of a sexual nature; use a person's submission to or rejections of such conduct as the basis for or as a factor in any employment decision; or otherwise create an intimidating, hostile, or offensive working environment by such conduct. Examples of prohibited sexual harassment include but are not limited to: derogatory comments, remarks, gestures or jokes about a particular sex; demands for sexual favors in exchange for favorable treatment or continued employment; unwanted sexual advances or propositions; unwelcome touching; graphic, verbal commentary about an individual's body, sexual prowess or sexual deficiencies; repeated sexual comments, sexual gestures, sexual jokes, leering, whistling, or other verbal abuse of a sexual nature; and the display in the workplace of sexually suggestive objects or pictures.

*Complaint Procedure:*

An employee who believes that he/she has been subjected to harassment and/or discrimination or observes harassment and/or discrimination of another employee and has been unsuccessful in or uncomfortable addressing the issue directly to the employee initiating the unwelcome



behavior, is required to disclose the offending behavior so appropriate action may be taken.

1. Reporting:

The employee should report the matter promptly and may choose any of the following persons for filing the complaint: the employee's supervisor, supervisory chain of authority, or Human Resources staff. An employee should not attempt to resolve incidents observed or heard about from others, but is expected first to report the matter promptly. Any report of misconduct shall be relayed to Human Resources who shall commence an investigation if it is determined that the actions may constitute workplace harassment as defined in this section. This report shall be handled as a grievance by the Human Resources Director, or Designee, pursuant to Section XI.

2. Confidentiality:

All complaints of harassment and/or discrimination shall be kept in confidence to the extent possible except as is necessary to investigate the complaint. The City cannot promise anonymity to persons who report harassment. All complaints of harassment and the results from any investigation thereof are confidential and not subject to disclosure through open records requests.

3. Investigation:

All reports of harassment and/or discrimination will be promptly reported to the Human Resources Department and may result in a workplace or an Equal Employment Opportunity (EEO) investigation.

4. Recommendations and Conclusions:

Following the investigation, the Human Resources Department will make findings and recommended appropriate action to the Department Director. Any investigation that results in a finding that a person has maliciously or recklessly made false accusations against another may subject the accuser to appropriate disciplinary action up to and including termination.

Employees have the right to file charges concerning certain forms of harassment, including sexual and racial harassment, and/or discrimination, with the Equal Employment Opportunity Commission, a federal agency, and the Colorado Civil Rights Division, a state agency.

If an employee has any questions concerning this policy, he/she is responsible for contacting his/her supervisor or the Human Resources Director, or Designee, for clarification.

5. Retaliation:

Retaliation by any employee against any individual who has made a charge, filed a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this policy will not be tolerated. Retaliation is a serious violation of the City's anti-harassment policy and must be reported immediately. Any act of retaliation may result in appropriate disciplinary action up to and including termination.

(I) Respectful Workplace:

The City strives to provide a respectful workplace that supports the physical, psychological, and social well-being of all its employees and non-employees through its motto of SPIRIT. The City recognizes and appreciates the value of diversity, equity, and inclusion among its employees and citizens. In order to ensure a respectful workplace and quality service delivery, all personnel must be aware and courteous of the beliefs, values, wishes, and diversity of fellow employees and non-employees who may occupy the workplace. Some examples of disrespectful, offensive, or inappropriate workplace behavior may include, but are not limited to, speaking in a loud or threatening manner, bullying, making rude, obscene or disparaging comments, personal insults or jokes intended to offend or marginalize others, and displaying offensive material.

As such, the City of Westminster is dedicated and committed to the principles and goals of diversity, equity, inclusion, fairness, courtesy, and respect for all individuals. The City is committed to provide a workplace environment that is respectful and supports the physical, psychological, and social well-being of all its employees and non-employees through the SPIRIT values, and will ensure that all employees and supervisors are in compliance with the respectful workplace standards and that all employees comply with the letter and spirit of all Federal, State, and local legislation, pertaining to covering anti-harassment and non-discrimination.

The City of Westminster will not tolerate, condone, or allow harassment whether engaged in by another employee, a supervisor, or a non-employee who conducts business with the City. As an organization, it is the City's duty to respond to each and every act, threat, and inappropriate behavior in order to ensure a working environment that is inclusive and respectful.

Any use of personal social media sites should adhere to all City policies, standards, and expectations, including but not limited to, the Political Activity Policy, the Respectful Workplace Policy, and all laws and regulations. Failure to adhere to these policies may result in corrective or disciplinary action.

The maintenance and practice of a respectful workplace is intended to address and correct questionable or unprofessional behavior before it can escalate into the boundaries of harassment, disrespectful, or inappropriate behavior. Managers and supervisors are responsible for the promotion of a respectful workplace and are required to consult with Human Resources and take proper action to correct the behavior of employees and non-employees that may be viewed as disrespectful, offensive, or inappropriate with discretion and sensitivity. All employees are required to take respectful workplace training as defined by the City.

**(J) Reasons for Dismissal or Disciplinary Action:**

Employees are subject to disciplinary action up to and including immediate termination for any of, but not limited to, the following reasons:

1. Violation of the provisions of the City Charter, City Code, these rules or of other written City or department policies, and regulations;
2. Failure to demonstrate behavior consistent with the City's commitment to service, pride, integrity, responsibility, innovation, and teamwork;
3. Violation of the workplace harassment and respectful workplace policies including but not limited to:
  - a) Sexual harassment of another employee;
  - b) Discrimination or harassment of another employee, a volunteer, or the public based on any protected class (such as race, color, sex, gender identity, sexual orientation, national origin, political or religious affiliation, age, disability, marital status, or military/veteran status) as defined under Title VII of the Civil Rights Act of 1964 and all subsequent related State and Federal legislation;

c) Misuse of personal social media sites and/or failure to adhere to all City policies, standards, and expectations; and,

d) Retaliation.

4. Absence from duty without properly approved leave;
5. Failure to demonstrate reasonable competence to the supervisor;
6. Inefficiency;
7. Insubordination;
8. Tardiness;
9. Acting so as to endanger the health and safety of others;
10. Negligence;
11. Dishonesty;
12. Submission of a misleading or incorrect application form or resume;
13. Damaging or wasting public property;
14. Theft;
15. Substandard job performance;
16. Offensive, defamatory, and/or disrespectful conduct toward the public or other City employees;
17. Abuse of a leave policy;
18. Providing false information or a misstatement of a material fact relating to the individual's employment with the City;
19. Improper or unauthorized use of City facilities, equipment, or vehicles;

20. Inability to perform the essential functions of the employee's position with or without reasonable accommodation;
21. Possession, sale, use, or distribution of illegal controlled substances while on duty, during lunch or other breaks, or while otherwise at a City work site or during City work time, testing positive for a non-prescribed drug and/or alcohol, attempting to falsify a drug and/or alcohol test, or inability to completed assigned duties safely and competently during work hours due to use of chemical substances or consumption of alcoholic beverages;
22. Failure to fully cooperate in any investigation involving questionable employee conduct;
23. Knowingly making false accusations regarding the behavior of another employee;
24. Loss of required license or other prerequisite for employment when such prerequisite is required for carrying out the duties of the employee's position;
25. Engaging in conduct that on or off-duty is deemed by the City Manager, or Designee, or a Department Director to be clearly not in the best interest of the City;
26. Physical fighting or horseplay between employees;
27. Failure to supply required documents for employment within the United States and/or other employment requirements;
28. Inability or unwillingness to meet the City's expectations regarding supervision of employee or team;
29. A driving record that does not meet the City's safety standards;
30. Criminal misconduct, on or off-duty;
31. Habitual leave abuse or excessive absenteeism;
32. Lack of fitness for duty;

33. Violence, including the infliction of any bodily injury or harmful physical contact or the destruction or abuse of property. Examples of violent acts include, but are not limited to, physical abuse including any intentional bodily injury including homicide; damage or destruction of City or an employee's personal property; unlawful use or unauthorized carrying of weapons; and other similar acts which are inappropriate in the workplace;
34. Job abandonment;
35. Relationships that adversely affect the workplace; and,
36. Unauthorized use of the employee ID badge.

The exclusive remedy for an employee who believes that good reason for their disciplinary action did not exist shall be the grievance procedure specified in Section XI.

**(K) Disciplinary Actions:**

Supervisory and administrative personnel shall have the authority to take whatever disciplinary actions that they deem necessary, after consultation with Human Resources and the City Attorney's Office, provided that provisions on discipline, suspension, demotion, or dismissal are closely adhered to and that any action taken is consistent with the provisions of these rules, departmental policies, and the values of the organization. The Human Resources Director, or Designee, may review any disciplinary action to assure compliance with the provisions of these rules.

When information received by the appointing authority indicates the possible need to administer a suspension, demotion, or dismissal, the appointing authority shall initiate such discipline by notifying the employee of a summary of the information. No sooner than twenty-four (24) hours after the employee has received notification, the appointing authority shall meet with the employee involved, present the information that has come to the appointing authority's attention, and give the employee an opportunity to admit or deny the charge or present information regarding mitigating circumstances.

It is not intended that this meeting constitute a formal hearing, but only provide the employee notice of the charges and give the employee an opportunity to meet and exchange information with the appointing authority. No other formal procedural requirements shall be required or

allowed for this meeting, including employee representation in the actual meeting, recording of the meeting unless approved in advance, or witness examination unless allowed or required by a collective bargaining agreement. If the employee wishes, the employee may submit a written explanatory statement to the appointing authority, which shall be attached to and kept with a copy of any disciplinary action. The appointing authority's determination of the action to be taken shall be based upon the information obtained from circumstances of the case. While Deputy City Managers, Department Directors, and Division Managers shall have the opportunity to participate in a pre-disciplinary meeting, their employment remains at-will.

When the appointing authority authorizes a disciplinary action, official notification of such action shall be provided to the employee in writing by the immediate supervisor or the person taking the disciplinary action, and a copy thereof shall be provided to the affected Department Director and the Human Resources Director, or Designee. This notification shall describe the specific reasons and circumstances surrounding the disciplinary action. The employee may pursue the grievance procedure on any disciplinary action not specifically excluded by these rules. The record of a written reprimand or more severe disciplinary action shall be filed with the employee's personnel records.

**(L) Suspension:**

A Division Manager may suspend an employee under that Division Manager's jurisdiction without pay as a disciplinary measure when the Division Manager deems a suspension to be appropriate. Prior to initiating a suspension, the Division Manager shall consult with the Human Resources Director, or Designee, and the City Attorney's Office. A written notification of the suspension shall be given to the employee and a copy shall be submitted to the Department Director and Human Resources Director, or Designee, with a copy for the personnel files, describing the circumstances preceding and specific reasons for the suspension. The actual day(s) of the suspension shall be set by the employee's supervisor. An employee who receives a suspension for disciplinary purposes does not have the option of working on a day off in lieu of receiving a suspension day without pay.

When, in the judgement of a supervisor, an employee's mental, emotional or physical condition or conduct is such that the employee's presence on-the-job or operation of equipment or a motor vehicle potentially endangers the employee, other employees, or the public safety and welfare, the supervisor may suspend the employee immediately. The provisions specified in these

rules will then be followed as soon thereafter as practical. The Division Manager may review the suspension. If the Division Manager determines that all or part of the suspension is unwarranted, the employee may receive pay for days previously suspended according to the final decision rendered.

**(M) Demotion:**

A Department Director may demote any Non-Exempt or Exempt employee under the Department Director's jurisdiction for the good of the municipal service or as a disciplinary measure when the Department Director deems it appropriate. The City Manager, or Designee, may authorize the demotion of a Department Director or Division Manager. Prior to initiating a demotion, the Department Director shall consult with the Human Resources Director, or Designee, and the City Attorney's Office. The Department Director shall give written notification of the demotion to the employee and shall submit a copy to the Human Resources Director, or Designee, describing the circumstances preceding and the specific reason for the demotion.

**(N) Dismissal:**

A Division Manager may dismiss hourly, temporary, instructor, substitute, or seasonal employees after consultation with the Human Resources Director, or Designee, and the City Attorney's Office. A Department Director may dismiss any employee, with the exception of a Division Manager, after consultation with the Human Resources Director, or Designee, and the City Attorney's Office in accordance with these rules. A copy of all dismissal letters will be sent to Human Resources for review and filing in the employee's personnel file.

Failure to follow these procedures is grounds for disciplinary action of supervisory or administrative personnel but does not affect the validity of the underlying dismissal action.

Dismissal of a Department Director or Division Manager shall be at the discretion of the City Manager, or Designee. All Department Directors and Division Managers are at-will employees. A Department Director or Division Manager may be terminated from employment at any time, with or without notice, warning, procedure or formality, for any reason or no reason, with the City's only obligation being payment of wages earned and benefits vested through the last day worked, plus any applicable severance compensation as defined in this document.



**(O) Notification:**

An employee who is arrested or charged with a felony or misdemeanor excluding minor traffic violations or speeding tickets shall notify their immediate supervisor, Department Director, or the Human Resources Director, or Designee, within three (3) calendar days of being arrested or charged. All offenses involving drugs or alcohol shall be reported to the employee's immediate supervisor, Department Director, or the Human Resources Director, or Designee, within three (3) calendar days. Employees must continue to notify their immediate supervisor of hearings, court dates, and/or convictions related to the initial incident(s) until the issue is concluded or resolved. Failure to keep their immediate supervisor updated on the pending case may be cause for discipline.

## **XI. Grievances and Appeals**

### **(A) General Information Regarding Grievances and Appeals:**

Supervisory and administrative personnel shall strive to anticipate, and thereby eliminate, the cause of most misunderstandings, problems, complaints, or grievances. To the extent that they occur, the employee is encouraged to promptly seek the employee's immediate supervisor's assistance. Supervisory personnel shall not interfere with, discriminate against, or make reprisals against any employee who files a grievance.

The City strongly encourages the use of non-adversarial dispute resolution techniques to resolve conflicts in a manner that is satisfactory to all affected parties. Supervisory and administrative personnel are strongly advised to seek the advice and support of the Human Resources Department and City Attorney's Office at the earliest possible time after learning of a problem to develop a means to cooperatively resolve the issues. Developing the least adversarial path to resolution, before conflict escalates further, is the goal. While alternative means to resolve personnel issues may be developed, either prior to the filing of a formal grievance or during the investigation and formal processing of a grievance, the earlier the better. Employees, too, are encouraged to suggest alternative means of resolving disputes without compromising their rights to the formal process.

### **(B) Grievance:**

A formal grievance is a disagreement regarding the meaning, interpretation, application, or alleged violation of these rules and policies adopted hereunder, departmental policies and rules, or any other administrative policies of the City. An employee may not grieve an evaluation of performance, a Performance Expectations Memo (PEM), or any supervisory feedback. When disputed, the Human Resources Director, or Designee, will determine whether the action/alleged action can be grieved.

### **(C) Filing a Grievance:**

Any employee with a grievance must file a written complaint with the Division Manager (or the party who took the action being grieved if that party is of higher rank) with a copy to the Human Resources Director, or Designee, within fourteen (14) calendar days following the grieved action. The Division Manager or Department Director shall try to resolve the matter within ten (10) calendar days from the receipt of the written grievance. If the employee is not satisfied that the difference has been resolved after action by the Division Manager, the employee may, within ten (10) calendar days of receipt of the grievance response, file the grievance with the Department

Director (if not already reviewed by the Department Director). The Department Director shall try to resolve the matter within ten (10) calendar days of receipt of the grievance. The deadlines in this paragraph may be extended with the mutual consent of the parties. If the employee is not satisfied that the difference has been resolved after action by the Department Director, the employee may pursue the following procedure:

1. Actions Other than Suspension, Demotion, or Dismissal:

Within ten (10) calendar days after receipt of the Department Director's response, the employee may ask the Human Resources Director, or Designee, in writing to investigate the grievance. If the Department Director has taken no action within ten (10) calendar days of receipt of the written grievance, the employee may request in writing that the Human Resources Director, or Designee, investigate the grieved action. The Human Resources Director, or Designee, shall within twenty-one (21) calendar days investigate the grievance and consult with the employee and then make recommendations to the City Manager, or Designee, who shall decide on the grievance within ten (10) calendar days. The City Manager's, or Designee's, decision shall be final in all instances. The deadlines in this paragraph one (1) may be extended with the mutual consent of the parties or because of an inability to do a complete investigation in the time allowed.

2. Suspension, Demotion, or Dismissal:

Within fourteen (14) calendar days after receipt of the Department Director's response, the employee may file an appeal to the Personnel Board or, if the Department Director has taken no action within ten (10) calendar days of receipt of the written grievance, the employee may file a written appeal to the Personnel Board within twenty-one (21) calendar days after the Department Director's receipt of the written grievance.

3. Failure to File Appeal:

An employee loses any right to file a grievance or appeal if the employee fails to file a written grievance within the timelines defined above.

No organization or individual has the right to file a grievance on the employee's behalf and legal representatives shall not be permitted to attend any meeting with the grieved employee held for the purpose of investigating the grievance prior to the time an appeal has been filed pursuant to subsection (D) of this section.

4. Grievances Related to Disabilities:

If an employee has, in the employee's view, suffered discrimination in violation of State or Federal law based on a past or current disability, whether real or perceived, or association with an individual with a disability, the employee may file a grievance pursuant to this subsection. A record of the grievance and the action taken to resolve it shall be maintained. This procedure is not a prerequisite to the pursuit of other legal remedies authorized by Federal law. A disability-related grievance alleging a violation of Federal laws protecting individuals with disabilities may be filed at any time.

**(D) Appeal:**

Only suspensions, demotions, or dismissals for disciplinary reasons can be appealed to the Personnel Board and only after all administrative remedies through the grievance procedure have been exhausted. Only regular full-time benefited employees and regular part-time benefited employees in authorized positions are eligible to appeal. Deputy City Managers, Department Directors, Division Managers, and probationary employees have no appeal rights beyond the grievance process to the City Manager, or Designee.

**(E) Filing an Appeal:**

The employee must file an appeal and request a hearing, in writing, setting forth the reasons for appeal in detail with the Human Resources Director, or Designee, as set forth in this section. The appeal must specify the grounds for appeal and shall contain a detailed statement of facts in support of the appeal. Anyone considering filing an appeal may contact Human Resources in writing requesting a complete copy of the Personnel Board Rules.

**(F) Forwarding an Appeal:**

The Human Resources Director, or Designee, shall immediately forward copies of the written appeal to each member of the Board.

The Human Resources Director, or Designee, has the authority to return to the employee for correction of any appeal that fails to conform to this provision regarding the grounds for appeal and the detailed statement of facts in support of the appeal.

**(G) Appeal Procedure:**

Upon receipt of the appeal from the Human Resources Director, or Designee, the Personnel Board shall schedule a hearing on the appeal. Once the Board meets to hear the appeal, it may take the time necessary to

obtain all the information deemed appropriate and, in so doing, the Board is not restricted to any particular time frame to conclude the hearing.

**(H) Subpoenas:**

The chairperson of the Personnel Board may issue a subpoena stating the title of the proceeding before the Board and commanding each person to whom it is directed to attend and give testimony at a hearing on an appeal before the Board at the time and place specified therein.

**(I) Findings and Decision:**

It is the interpretation of the City Council that the Charter of the City of Westminster establishes a personnel grievance process in which the Personnel Board has the responsibility of determining the facts of an appeal and determining when disciplinary action should be reconsidered and, in such cases, the City Manager, or Designee, has the responsibility of reconsidering the disciplinary action and making the final disciplinary decision based on the facts determined by the Board. At the conclusion of the hearing, the Board shall send a written decision to the City Manager, or Designee, which concludes that:

1. The action appealed was without justification and should be reconsidered. The Board may recommend that the appellant be restored to previous status and receive compensation for the period of the suspension, termination, or reduction in grade;
2. The action appealed was justified and should be confirmed; or,
3. The action appealed was partially justified and should be reconsidered. The Board may recommend that the discipline be reduced under the conditions the Board deems proper.

The Board's decision shall contain findings of evidentiary fact on all material issues of fact and conclusions regarding the issues of law or discretion presented by the appeal.

**(J) Notice of Findings and Decision: Transcript:**

The Board shall report its findings and decision to the City Manager, or Designee, the parties and their attorneys within thirty (30) days after the conclusion of the hearing. The City shall make a record of the testimony and proceedings at an appeal hearing. Either the City or the employee may request a transcription of the testimony and proceedings at an appeal

hearing. If the employee requests a hearing transcription, it shall be prepared at the employee's expense.

**(K) Decision of the City Manager, or Designee, Regarding Grievances and Appeals:**

1. When the Board has concluded that the discipline was justified, the City Manager, or Designee, shall confirm the decision of the Board;
2. When the Board has concluded that the action appealed was without justification or was partially justified, the City Manager, or Designee, shall reconsider the suspension, demotion, or discharge, and either reinstate the employee, impose a lesser penalty, or confirm the original suspension, demotion, or discharge; or,
3. When reconsidering a suspension, demotion, or discharge, the City Manager, or Designee, shall be bound by the Board's findings of evidentiary fact. The City Manager, or Designee, may accept or reject the Board's findings of ultimate fact or conclusions and may accept or reject the Board's recommendation regarding discipline.

**(L) Jurisdictional Administrative Procedure:**

No employee may bring an appeal before the Board until the employee has received the written notice of the final action taken or contemplated by the Department Director. The filing of an appeal under any of the procedures described in this section shall not constitute grounds for delaying the administrative action against which the appeal is made.

**(M) Appeal from Decision of City Manager, or Designee:**

The employee may appeal any action of the City Manager, or Designee, resulting in suspension, demotion, or dismissal to the District Court.

**(N) Right to Legal Counsel:**

The employee may only be represented by a person who is licensed to practice law in the State of Colorado.

**(O) Rules of Procedure for Grievances and Appeals:**

The Board may adopt additional rules of procedure to supplement the procedures outlined in this Section.

## **XII. Separations**

### **(A) Resignation:**

In order to leave the municipal service in good standing, a written resignation is required two (2) weeks prior to the last day of work unless otherwise agreed to by the employee's supervisor or Division Manager receiving notification of resignation.

### **(B) Layoffs:**

#### **1. Medical Layoff:**

A layoff of an employee may be necessary as a result of the employee's inability for physical or psychological reasons as a result of a disability to perform the essential duties of the employee's position. A separation resulting from medical or psychological reasons normally would take place after the employee has exhausted Major Illness Leave and Short-Term Disability Leave or, in the case of on-the-job injuries, Injury Leave; or earlier if it is evident from a physician's report that the employee will not be able to return to work in accordance with Section IX.

#### **2. Organizational Layoff:**

Layoffs may also be required as a result of budgetary cutbacks, organizational changes, restructuring or changes in City services. In the event a layoff is necessitated, the criteria for determining which employees shall be laid off shall be based on the employees' performance in their positions and not on seniority. Guidelines for implementing a reduction in force for economic and other reasons may be issued by the City Manager, or Designee.

Employees who are to be laid off from City employment as a result of medical or psychological reasons, a reduction in force, or other reason not related to a disciplinary measure, shall be given the opportunity for a pre-separation meeting. The meeting shall be called by the appointing authority no sooner than twenty-four (24) hours after the employee has received notification of the layoff. The intent of this meeting is to provide an opportunity for the appointing authority to present information regarding the layoff and to give the employee an opportunity to present any additional information that the employee believes should be considered.

The names of regular and part-time employees who have been laid off may be placed on an appropriate re-employment list for up to one (1) year. In

addition, at the discretion of the City Manager, or Designee, based on available resources, the City may provide to employees who are to be laid off an extension of medical and dental insurance for a period of up to six (6) months from the date of layoff; assistance in finding another position within the City; out placement counseling; and counseling and assistance with transition during the period prior to layoff. Employees negatively impacted by a reduction in force may be eligible for a layoff package as approved by the City Manager, or Designee.

If an employee may be laid off, the employee may be placed in the same or different work group in the employee's original position or substantially similar position for which the employee is qualified. Alternatively, the employee may be placed on a re-employment list for up to one (1) year, awaiting possible appointment to the employee's original position or substantially similar position for which the employee is qualified.

For the full policy, please refer to the City's Administrative Memos on the Intranet.

**(C) Retirement:**

Employees nearing retirement should contact the Human Resources Department to assist in the transition and to ensure that various records are in order.

The City may create an Early Retirement Incentive Program allowing approved employees an early retirement package as established by the City Manager, or Designee. Under an established Early Retirement Incentive Program, the City may offer approved employees additional benefits for a designated period of time as established by the City Manager, or Designee.

**(D) Medical and Dental Insurance:**

Upon separation, the employee's medical and dental insurance shall be terminated on their last day of employment. The employee may have the option of continuing medical and dental insurance coverage at the employee's expense in accordance with the provisions of the Federal COBRA legislation or the City's Retiree Medical/Dental coverage options.

**(E) Life Insurance:**

Upon separation, the employee's life insurance shall be terminated immediately or, at the employee's request and expense, it may be transferred within thirty-one (31) days and continued by the employee.



**(F) Employee 401(a) Defined Contribution Plan and 457(b) Deferred**

**Compensation Plan:**

Upon separation, the employee shall be eligible to withdraw both the employee's contributions and vested City's contributions, if any, in accordance with provisions of the Employee 401(a) Defined Contribution Plan ordinance and pursuant to procedures adopted by the Employee 401(a) Board. The employee may at this time withdraw any deferred compensation according to the provisions governing such funds. Employees will not be allowed to resign and be rehired for the purpose of accessing their Employee 401(a) Defined Contribution Plan and/or Deferred Compensation Plan.

**(G) Final Paycheck; Return of Property; Exit Interview:**

Final payments for employees who separate from employment may be placed in the custody of the immediate supervisor. The employee shall make an appointment with the immediate supervisor to return all City property before receiving these payments. An Employee Checkout Sheet should be completed at this time. Employees may be requested by the Human Resources Director, or Designee, to complete an exit survey and to participate in an exit interview prior to receiving final payments.

The final paycheck shall be available on the normal pay day for the pay period in which the employee's last day of service falls.

An employee leaving City employment is responsible for notifying the Human Resources Department of any change in address so that subsequent documents can be appropriately forwarded.

**(H) Death of Employee:**

Upon the death of an employee, all accrued salary and Vacation Leave will be paid at the established rate directly to the "Estate of employee" in care of spouse and mailed to the spouse. If there is no spouse, then the payroll check will be in care of and mailed to the primary beneficiary designated on the employee's major City-paid life insurance designation forms or as otherwise specified in writing by the employee. Payroll checks are not made out to anyone other than the estate of the employee.

Retirement and additional life insurance benefits, if applicable, will be paid to the beneficiary designated by the employee. Surviving spouse, civil union partner, and children will be notified of COBRA benefits for medical and dental insurance if applicable.

### **XIII. Employee Health and Safety**

#### **(A) Safety:**

It is the responsibility of every employee to observe safe working practices at all times. Employees shall bring unsafe working conditions, practices, or procedures to the attention of their supervisor, who shall correct safety hazards in a timely fashion. Violation of City, department, or other official safety standards is cause for disciplinary action.

#### **(B) On-the-Job Injuries:**

It is essential that all employees adhere to safety measures and follow the proper procedure if on-the-job injuries occur. The following are the procedures to follow for injuries that occur on-the-job:

1. An employee who is injured on-the-job must notify the employee's supervisor immediately, if physically possible.
2. The employee should seek medical attention if necessary. The City has designated physician groups that are to be utilized for the treatment of on-the-job injuries. The names of these medical service providers are posted on the City Intranet site and also available from the City's Risk Management Office. Only these physicians are authorized to treat employees for work related injuries unless the supervisor determines that the severity of an injury, or the time of its occurrence requires otherwise.

The supervisor must contact Risk Management or the Substance Assistance Team (SAT) to determine if a post-accident substance screen is required.

3. All employees who have an on-the-job injury must complete a Workers' Compensation Injury Report form and submit to the City's Risk Management Office within twenty-four (24) hours of the injury, if possible. The original Workers' Compensation Injury Report form and other related paperwork must be forwarded to the City's Risk Management Office within three (3) working days. The notification must be signed by the employee's supervisor.
4. Supervisors shall notify the Human Resources Manager/Risk that an employee will be losing time from work as soon as it becomes known.

5. Upon City designated physician release, the employee shall return to limited or full duty immediately or at next shift.

**(C) Employee Participation in Athletic Events:**

Many City employees engage in personal physical fitness conditioning programs and competitive athletic events. While the City strongly supports and encourages employees to be physically fit and healthy, it must be recognized that most recreational activities or personal physical fitness conditioning endeavors are private activities performed at the employee's own initiative. These guidelines should be observed with respect to such programs and competitions:

1. Participation in personal physical fitness conditioning programs or competitive athletic events shall be done on the employee's time unless it is determined by the City Manager, or Designee, to be a part of an employee's job responsibilities;
2. Prior approval by the respective Department Director is necessary to participate in a competitive event as a representative of the City. Such participation shall be considered non-duty hours unless the Department Director determines otherwise;
3. In the event of an injury resulting from physical fitness conditioning or competitive athletic events, Workers' Compensation benefits are generally not available;
4. In all cases, service levels, departmental duties, and functions shall be the primary consideration as the basis for granting approvals or schedule changes allowing an employee to represent the City in such events;
5. Use of departmental or City facilities for participation in personal physical fitness conditioning or competitive athletic events shall not be considered a basis for work-related injury claims; and,
6. Participation or representation of the City by employees in competitive athletic events shall be voluntary.

**(D) Communicable and Infectious Illness:**

This section addresses the City's policy with respect to the employment of persons suffering from extended communicable and infectious diseases, such as AIDS, hepatitis, tuberculosis, and other communicable diseases that

may pose serious health hazards or concerns for the public or fellow employees.

1. Disability Status:

Under Federal and State law, sufferers of AIDS and tuberculosis may be considered “disabled” and entitled to the same protections in hiring and employment as any other individual with a disability. The City will not discriminate against any otherwise qualified AIDS or tuberculosis patient or the victim of any other communicable disease classified as a disability, but will make reasonable accommodation for the employee’s disability, if necessary. Such accommodation will be made upon consultation with the employee, the employee’s physician, and appropriate supervisors of the employee. Such accommodation shall not include any arrangement that causes undue financial or administrative burdens for the City and compromises services to citizens. Reassignment will be considered to protect the employee, co-workers, or the public from further health danger, if necessary. Frequent or prolonged absence from the job or inability to perform the essential functions of the job shall result in discipline or separation administered in the same manner as any other work problem resulting from a health condition. Whether an employee with a communicable disease is “otherwise qualified” to work depends on factors such as reasonable medical judgements about how the disease is transmitted, the duration and severity of the risk, and the probabilities that the disease will be transmitted and will cause varying degrees of harm.

2. Co-Worker Behavior:

In the absence of medical evidence linking casual daily contact to infection and exposure risks, any form of discrimination or refusal to work with an infected employee will not be tolerated. Risk of contracting communicable and infectious diseases in the workplace will be determined on a case-by-case basis. Employees such as police officers, firefighters, or paramedics who may be exposed to bodily fluids in the course of their work should become familiar with their department policies and protocols for avoiding contact with potentially contaminated blood and other fluids and precautions to be taken when such contact occurs.

**(E) Use of City Vehicles:**

Driving a City vehicle is a privilege. Employees driving City vehicles serve as City representatives and actions while driving effect the reputation of the City. Although individual rights are important, the City's ultimate responsibility is to the safety and health of both the City's employees and citizens. Employees therefore shall obey all traffic laws and drive safely, responsibly, and courteously at all times.

All occupants operating or riding in City vehicles or any vehicle used for City business must fasten their safety belts and shoulder harnesses, if so equipped, upon entering the vehicle; safety belts and harnesses must remain in use as long as the vehicle is in motion. It is the responsibility of the driver and all occupants to ensure that everyone in the vehicle is in compliance with the procedure. Failure to comply with this requirement may result in disciplinary action, as well as, citation for violation of state or municipal traffic codes. In addition, failure to comply with this City safety policy shall result in a safety violation under the Colorado Workers' Compensation Act resulting in a fifty percent (50%) reduction in injury benefits payable to the injured employee. Employees operating vehicles off roadways in park areas for the purpose of maintenance shall be exempted from using a seat belt. Although Peace Officers are exempt from the State seatbelt law while performing official duties, this exemption was meant for rare situations involving specific officer safety issues. Officers must understand that not wearing a seatbelt in most situations can be more dangerous, and each situation will be reviewed for appropriate use of seatbelts by the Police Department Accident Review team.

Operation of a City-owned vehicle is restricted to official City business or City-authorized activities and functions, and operation of the vehicle is restricted to City employees. Individuals not employed by the City are not allowed to drive or ride in a City vehicle except for an approved City business related purpose. No City employee shall use or permit the use of City vehicles for any private purposes.

Employees whose job duties require driving, either regularly or occasionally, are required to report all moving citations and violations the employee has received, including those in his/her own personal vehicle during personal use, to his/her supervisor and the Department Director within twenty-four (24) hours of the violation or next business day if the violation occurred on a weekend or holiday. Failure to report violations may be cause for disciplinary action.

Traffic violations and parking tickets received while operating a City vehicle are the responsibility of the employee. For the full policy, please refer to the City's Administrative Memos on the Intranet.

**(F)Use of Personal Vehicle on City Business:**

All employees approved to use their personal vehicle for City business are required to carry at least minimum insurance coverage as state laws mandate. The City's mileage reimbursement rate provides for the additional cost for insurance, as well as, fuel and wear and tear that employees incur due to job related usage.

Employees involved in an automobile accident utilizing their personal vehicle for City business must immediately report the accident to their supervisor and the law enforcement agency having jurisdiction where the accident took place. In the event a claim is brought against an employee due to the use of the employee's personal vehicle on City business, the employee must notify Risk Management immediately. Insurance coverage for the accident may be available under the City's automobile liability insurance policy to the extent required by the Colorado Governmental Immunity Act, but will be secondary to the employee's personal automobile coverage.

If the employee had access to a City vehicle and chose not to use the City vehicle, or if an employee's use of their personal vehicle was not necessary nor within the course and scope of their employment with the City, the employee will not be reimbursed under the following reimbursement policy. To be reimbursed under this policy, the employee must show proof of personal automobile insurance deductible and proof that the deductible was paid by the employee or proof of repair or replacement costs to the vehicle.

In the event the employee is involved in an accident on City business that results in damage to the employee's personal vehicle and the accident is found to not be the employee's fault, the City may reimburse the employee the cost of their personal automobile insurance deductible or repairs/replacement costs, whichever is less, up to one thousand dollars (\$1,000.00). Fault may be determined by the accident report from the jurisdiction within which the accident occurred or by a panel made up of the City's Risk Manager, the employee's supervisor, Division Manager, and/or Department Director.

This policy is not intended to waive the City's immunity under the Colorado Governmental Immunity Act nor act as insurance covering employee's personal property.

**(G) Distracted Driving:**

Text messaging is strictly prohibited while driving a City vehicle or when driving a personal vehicle on City business. The use of cell phones or any other distractions while driving a City vehicle or a personal vehicle on City business is highly discouraged and employees are cautioned that this type of activity may undermine their ability to drive safely.

Cell phone use is prohibited in all commercial motor vehicles (CMV) in Colorado beginning January 3, 2012. Refer to the Federal Motor Carrier Safety Regulations for more detailed information.

**(H) Required Driver's License:**

The possession of a valid Colorado driver's license for the type of vehicle(s) the employee will operate for the City is required. Employees must have their driver's license in their possession at all times while operating a vehicle. Motor Vehicle Records (MVR) will be examined prior to the start of employment. The City may also conduct periodic reviews of an employee's motor vehicle record to verify possession, validity, and compliance with the requirements of this policy.

Requirements for the operation of motor vehicles on City business:

1. All operators must have a valid driver's license prior to date of employment.
2. All operators must have a Colorado driver's license in accordance with Colorado law.
3. All operators must be at least eighteen (18) years of age.
4. All operators must be licensed in the class of vehicle operated.
5. Driving records must remain "acceptable," as determined by the City, for continued ability to drive City vehicles.

Motor Vehicle Records (MVR) for current employees may also be requested and reviewed in the following situations:

1. After an on-the-job collision determined by the department to be preventable.
2. If a complaint is received regarding the employee's driving while on City business.
3. If an employee transfers to a position requiring a valid Colorado driver's license, or into a position requiring a different type of driver's license than required for the current position.

**(I) Suspension, Revocation, Denial, or Cancellation of Driver's License:**

Employees required to possess a valid motor vehicle operator's license, for the performance of their duties must notify their supervisor and Human Resources immediately upon the suspension, revocation, denial, or cancellation of their license, or if they are otherwise disqualified from driving, all of which immediately disqualifies an employee from operating any City vehicle that requires possession of a valid driver's license. Accommodations for employees with suspended driver's license may or may not be provided, and will generally be for no more than twelve (12) months. Any violation of this policy may result in discipline.

For employees whose job duties regularly require driving, at the discretion of the Department Director and contingent upon the availability of such a position, the employee may be demoted or transferred into a position that does not require a driver's license and for which the employee is qualified. This option shall only apply for the first suspension or revocation of license while employed in a driving required position. Any subsequent loss of license while the employee holds a driving required position within a three (3) year period will result in immediate termination.

The above procedures shall also apply to the suspension or revocation of a Commercial Driver's License (CDL) when an employee is required to have a CDL to carry out the duties of his/her position.

Terminated employees, if in good standing, may apply for any vacancy for which they are qualified and that does not require a driver's license.

An employee whose license has been suspended for any substance related offense may be required to successfully complete alcohol or drug treatment



prior to continuing employment, or in the case where an employee has been terminated, prior to returning to employment with the City.

**(J) Driving Record Review:**

Motor Vehicle Records (MVR) for current employees will be graded based on the following table, as minimum requirements. “Reviewable” is defined as indicating cause for some concern. An MVR flagged as “Reviewable” will be evaluated relevant to the driving requirements of the position. When an employee’s MVR falls into the “Reviewable” category, corrective action up to and including termination of employment will be taken.

Any exceptions to this driving record review criteria must be reviewed by the Department Director, Human Resources Manager/Risk, and Human Resources Director, or Designee, for approval by the Department Director.

<b>Number of Minor Violations</b>	<b>Number of At-Fault Accidents = 0</b>	<b>Number of At-Fault Accidents = 1</b>	<b>Number of At-Fault Accidents ≥ 2</b>
0	Acceptable	Acceptable	Reviewable
1	Acceptable	Acceptable	Reviewable
2	Acceptable	Acceptable	Reviewable
3	Acceptable	Reviewable	Reviewable
4	Reviewable	Reviewable	Reviewable
Any Major Violation in the Last Five (5) Years	Reviewable	Reviewable	Reviewable

*Definitions:*

1. Minor Violation:  
Any motor vehicle violation conviction other than a major violation conviction, except parking violations.
2. Major Violation:
  - a) Driving under the influence of alcohol/drugs or driving while ability impaired;
  - b) Leaving the scene of an accident;
  - c) Failure to report an accident;

- d) Reckless driving;
- e) Speeding contest;
- f) Making a false accident report;
- g) Fleeing or eluding a police officer;
- h) Homicide, manslaughter, or assault arising out of the use of a vehicle; or,
- i) Driving while license is suspended or revoked.

Applicant and candidate MVRs may be reviewed prior to hire and any potential employee with more than six (6) points within three (3) years may be disqualified.

**(K) Driving Under the Influence or Driving While Ability Impaired by Alcohol/Drugs:**

Employees cited for driving under the influence or driving while impaired must report test results to their supervisor as soon as available or when noted on the driving citation issued. Disciplinary action may take place before test results are available or before Department of Motor Vehicle (DMV) or court hearings are complete.

**(L) ADA Interactive Process:**

An ADA interactive process is procedure that will be initiated between an employee and Human Resources to determine if the employee requires a reasonable accommodation to perform the essential functions of their job and if so, what the accommodation(s) may be.

The process is initiated either by:

1. The employee's written or verbal request for assistance, or;
2. The employer's formal inquiry to the employee following workplace behaviors that may potentially be the results of a medical condition covered by the ADA.

In this conversation, the employee may request an accommodation, reject any accommodations request, or offer suggestions for accommodations

that will allow them to perform essential job functions. The procedure may include the following:

1. Medical documentation or other reliable, objective information to conclude that the employee has a physical or mental impairment that substantially limits a major life activity. This is accomplished by providing a form and employee's job description to the medical provider in order to receive information as to the employee's limitations, and their ability to meet the essential functions of the job.
2. Discussion of possible accommodations with the employee, his or her health care providers, and supervisors who have knowledge of the worksite and the job.
3. Determination of whether the employee's preferred accommodation creates an undue hardship for the employer, and if so, suggest and discuss alternative accommodations if possible.

#### **XIV. Substance Use**

The City of Westminster is committed to being a drug free workplace for all employees. In addition, per the Federal Drug Free Workplace Act of 1988, the City is required to be a drug free workplace. This will be accomplished through employee education, employee counseling, and through various types of substance testing including pre-employment, reasonable suspicion, post-accident/incident, and random screenings for safety-sensitive employees.

In the interest of public and employee safety, the City developed a comprehensive policy. The policy addresses the need to monitor all safety-sensitive employee positions in a consistent manner across departments.

##### **(A) Substance Assistance Team (SAT):**

Supervisors should consult the SAT, whenever a question exists as to whether substance screening is appropriate. The SAT can assist the supervisor in making decisions that comply with these rules, protect employee and public safety, and promote consistency in substance screening decisions made in various City departments. During business hours, contact the Human Resources Department (x2150). Outside of business hours contact Police Dispatch (x4361). Supervisors should feel free to contact the SAT at any time of the day or night if a need arises to discuss immediate testing.

##### **(B) Reporting Drug and Alcohol Use:**

The employee should immediately notify his/her immediate supervisor if an employee has knowledge that another employee, while on duty, is under the influence of alcohol or a controlled substance, is in possession of or is using a controlled substance on duty at City facilities or work sites, unless such possession is in the scope of a law enforcement or other lawful duty.

##### **(C) Commercial Driver's License (CDL) Regulations:**

The U.S. Department of Transportation (DOT) has promulgated regulations that specify alcohol and drug testing procedures for employees who hold a CDL in order to perform their job functions. This policy is more comprehensive than the federal regulations in several areas. The federal regulations allow the City to rely on its independent authority as a home rule municipality to impose requirements in addition to those found in the federal regulations. Unless stated otherwise, substance use related rules apply to CDL holders, as well as, all other City employees.

##### **(D) For Further Information Regarding Substance Abuse:**

Employees should contact their supervisors or SAT if they need more information or have any questions regarding these rules.

**(E) Information, Signs, and Symptoms Regarding Substance Abuse:**

Alcohol and substance abuse is a complicated problem calling for specialized supervision and care.

An employee should not help or aid a person who appears to have an alcohol or drug abuse problem by making excuses or doing work for the employee to compensate for the employee's performance problems. Employees are encouraged to inform their immediate supervisor if they believe that a fellow employee has a substance abuse problem.

Please notify your supervisor immediately if you witness someone with any of the following symptoms related to substance abuse:

1. Odors (smell of alcohol, body odor, or urine);
2. Movements (unsteady, fidgety, dizzy);
3. Eyes (dilated, constricted or watery eyes, or involuntary eye movements);
4. Face (flushed, sweating, confused or blank look);
5. Speech (slurred, slow, distracted mid-thought, inability to verbalize thoughts);
6. Emotions (argumentative, agitated, irritable, drowsy);
7. Actions (yawning, twitching); or,
8. Inactions (sleeping, unconscious, no reaction to questions).

For additional information concerning the effects of alcohol or drug abuse, contact the Human Resources Department or the Employee Assistance Program.

**(F) Employee Assistance Program (EAP) and Accommodation of Treatment of Addiction:**

The City of Westminster encourages employees who have a substance abuse problem to voluntarily report such to their supervisor. Upon request, the City will make every reasonable attempt to assist the employee by referral to appropriate counseling/treatment professionals. While the City may support an employee in obtaining assistance with an abuse or

dependence problem, any work-related performance problems will be addressed through normal procedures.

An employee who violates this policy may be required to be evaluated by the City's Employee Assistance Program (EAP). The employee may be required to participate in a treatment program. The costs associated with counseling or treatment is the responsibility of the employee. Most treatment programs are covered by the employee's medical insurance and some resources are offered by the EAP free of charge. Major Illness Leave is available for inpatient treatment programs.

If an employee chooses to seek help without notifying a supervisor, EAP resources are available on a confidential basis to any employee or family member who chooses to take advantage of this benefit. Information on an employee's visit will be reported to the City only upon the written approval of the employee. Medical insurance coverage for drug and alcohol treatment is also included under medical plans provided by the City.

Employees wishing to obtain more information on any of these benefits should contact the Human Resources Department. Requests for accommodation for treatment of addiction should be made to the employee's supervisor or the Human Resources Director, or Designee.

**(G) Training Requirements Regarding Substance Policy:**

Supervisors of employees holding CDLs, shall have at least one (1) hour of training on alcohol abuse and an additional one (1) hour of training on controlled substance use annually based on DOT regulations. Training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. CDL holders will receive annual education on alcohol and controlled substance abuse.

All other City employees, including supervisors, are encouraged to attend training on alcohol and substance abuse.

**(H) Designation of Safety-Sensitive Positions:**

Many positions in the City hold heavy responsibility for promoting and preserving public safety. Employee and citizen safety often depend on the care and skill of City employees. The City designates these classifications as safety-sensitive where functions require higher sensitivity for safety of the public. For safety-sensitive positions, random drug and alcohol testing and/or a high level of direct supervision is an integral part of maintaining a safe and healthy work environment. Random testing promotes the safety of

emergency response teams, a high level of service to citizens, and the public's confidence. Such testing promotes the credibility of police officers as witnesses in illegal substance hearings, reduces the potential for corruption, and promotes the safe and accurate use of firearms, safe emergency response, and emergency vehicle operation.

The Human Resources Department consults on an ongoing basis with City departments to identify positions that may be classified as safety-sensitive. The list of these positions is maintained in an Administrative Memo on the City's Intranet issued and updated periodically by the City Manager, or Designee. Positions and essential job functions will be reviewed on a case-by-case basis to determine whether the position is safety-sensitive and whether random substance screening or some other type of increased supervision should be implemented for that position. Some of the criteria that may be considered in making this determination include, but are not limited to, the following:

1. The employee is required to possess a valid Commercial Driver's License (CDL), to operate a commercial motor vehicle;
2. The employee is required to operate an emergency vehicle, or to operate potentially dangerous equipment or machinery;
3. The employee exercises law enforcement authority, or is required or permitted to carry a firearm while on duty;
4. The employee provides emergency medical services;
5. The employee has unsupervised access to controlled substances;
6. The employee is responsible for the care or safekeeping of minors; or,
7. The employee's action or inaction has the potential to cause serious injury or death to a citizen or a fellow employee.

**(I) Prohibited Conduct Related to Substance Use:**

1. Behavior Related to Alcohol and Drug Abuse:  
An employee shall not:
  - a) Report for duty or remain on duty while performing regular or safety-sensitive functions having a blood alcohol concentration

of point zero two (0.02) or higher, or after using any controlled substance that they may test positive for, except for a legally prescribed drug if use of such drug will not adversely affect the employee's ability to perform safety-sensitive functions.

- b) Possess alcohol or possess, sell or distribute illegal drugs or controlled substances while on duty or driving a City vehicle except when the possession of alcohol, or illegal drugs or controlled substances is in the line of duty.
- c) Use alcohol or prohibited drugs while on duty while performing regular or safety-sensitive functions or after the employee is notified that he or she is "on-call." The consumption of alcoholic beverages served in conjunction with an event on City premises authorized by the City Manager, or Designee, is permitted by this policy so long as the consumption of such alcohol is not inconsistent with the safe and efficient performance of an employee's duties.
- d) Perform a safety-sensitive function within four (4) hours after using alcohol.
- e) Use alcohol within eight (8) hours after an accident, or until the employee takes any required post-accident alcohol test, whichever happens first.
- f) Perform a safety-sensitive function and use a legally prescribed drug or non-prescription drug, which may in any way affect the employee's ability to perform the essential functions of the position safely, unless the employee's supervisor is first notified that the employee cannot safely perform the safety-sensitive functions. The on-duty use by an employee in a safety-sensitive position of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgement may be adversely affected must be reported to the supervisor and medical advice must be sought by the employee, as appropriate. This provision does not require the disclosure of the drug name or the condition for which it is taken.
- g) Fail to notify the employee's supervisor that the employee is ineligible for emergency callback and the reason the employee



is incapable of responding, if the employee is under the influence of alcohol or drugs.

2. Off Duty Conduct:

Off duty conduct and convictions related to use or abuse of alcohol, or use, abuse, possession, sale or distribution of controlled substances, or abuse of other substances may be grounds for a fitness for duty evaluation and adherence to a Continued Employment Agreement, as well as, discipline under these rules.

3. Positive Test:

A positive test result for non-prescribed drugs and/or alcohol, conducted pursuant to this policy, shall be a violation of this policy and shall be cause for discipline, up to and including termination.

4. Refusal to be Tested:

Testing pursuant to this policy is mandatory. If the employee refuses to take a test pursuant to this policy, the refusal will be treated as a positive test and the employee will not be permitted to perform or continue to perform any duty, including safety-sensitive functions, except in accordance with the procedures, which apply to a positive test.

Refusing to be tested includes the following conduct:

- a) The employee does not provide enough breath for testing without a valid medical explanation after being informed of the requirements for breath testing;
- b) The employee does not provide adequate urine for drug testing without a genuine inability to provide a specimen as determined by a medical explanation after being informed of the requirements for urine testing;
- c) The employee engages in conduct that clearly obstructs the testing process, such as tampering with or adulterating a sample, and including a refusal to participate in testing;
- d) The employee does not sign a consent form authorizing a urinalysis and/or breath alcohol test for drug and alcohol screening as allowed in this policy, or if the employee does not permit release of test results to the City; and,

- e) The employee does not report for mandated testing within the required time limit of two (2) hours for random or reasonable suspicion testing, if no longer on premise.

5. Evaluation of Substance Abuse:

An employee who has engaged in prohibited conduct and who continues to be employed may be referred by the City to available resources for an evaluation and follow-up testing as described in this section, in addition to, any other testing pursuant to this policy. The employee may be required to be evaluated by an EAP substance abuse professional who will determine what type of assistance, if any, the employee may need in addressing a dependency problem. As a condition of continued employment, the employee may be required to follow any treatment program prescribed by the substance abuse professional, and may be required to authorize the professional to inform the City as to the employee's compliance with the program.

6. No Work After Violation of Substance Abuse Policy:

An employee shall not be on duty, report for duty, or perform a safety-sensitive function after:

- a) A reasonable suspicion test for drugs;
- b) A reasonable suspicion test for alcohol, unless the test was negative;
- c) Receiving any positive test for alcohol or drugs; or,
- d) Any other prohibited conduct until a negative result is received, and/or the employee's Division Manager has approved his/her return to duty, after consulting with the Human Resources Director, or Designee.

7. Illegal Acts:

The possession, sale, or distribution of controlled substances, except in the line of duty, or the illegal use of controlled substances by an employee while on duty or during work, breaks, or at any time while the employee is at a City work site, on work time, or in a City vehicle constitutes cause for disciplinary action, up to and including dismissal. The appropriate law enforcement authorities may be contacted in the case of such conduct.

8. Reporting Convictions and Criminal Charges:

In accordance with Federal law, any employee convicted of a drug offense in the workplace must report such conviction to his/her Division Manager.

In addition, any employee convicted of or pleading guilty to sale, possession, or distribution of illegal substances outside the workplace must report such conviction to his/her Division Manager.

Identified safety-sensitive employees must immediately report to their supervisor any substance related criminal charges while on or off duty, including but not limited to, DUIs and DWAI.

**(J) Types of Substance Testing:**

1. Pre-employment Substance Testing:

After receiving a job offer and before starting work, all applicants must pass a pre-employment drug screen. The types of screening and levels of the substances, which constitute a positive screen, will be determined administratively after consultation with the City's medical service providers. Announcements for positions with the City will state that substance screenings will be part of the pre-employment process. In addition, when reporting to the medical facility, applicants will be required to sign a consent form. Applicants who refuse to consent to substance screening or who attempt to tamper with the screening sample will not be eligible for City employment for one (1) year. If a positive substance screen is confirmed, the applicant will be disqualified for consideration for employment for the period of one (1) year. If the applicant is disqualified, the Human Resources Director, or Designee, will notify the appropriate supervisor that the applicant is not eligible for hire.

2. Mandatory Substance Testing:

An employee who is involved in an accident or an incident involving property damage or injury to the employee or another person shall immediately report such occurrence to the supervisor.

- a) Any employee whose order, action, or failure to act is determined to be, or cannot be ruled out as, a causative factor in the events leading up to or causing an incident or accident

should be tested for alcohol and drugs when the following incidents occur on duty:

- (i) An employee shoots a person;
- (ii) An employee accidentally discharges a firearm;
- (iii) An employee is involved in an incident in which a human fatality occurs;
- (iv) An employee is involved in an incident or accident and the employee requests a drug and alcohol test; or,
- (v) An employee whose performance could have contributed to an incident or accident in which a person is injured and requires immediate treatment away from the scene of the incident or accident, or a motor vehicle or equipment is damaged to the extent that it must be towed from the scene or is rendered inoperable and requires more than simple repairs. Such damage does not include tire disablement without other damage.

In the event of an incident described in (v), testing is mandatory unless a supervisor or higher manager determines that the employee's actions were not a causative or contributing factor. Such decision may be made only after consulting with a member of the Substance Assistance Team (SAT) to determine whether testing is not required under the circumstances. Testing is required unless such consultation occurs.

In the event of significant incidents or accidents or near-accidents that do not require mandatory testing, the supervisor should consider whether to contact a member of the Substance Assistance Team (SAT) to discuss whether reasonable suspicion exists to test the involved employee.

- b) Decision Points Regarding Substance Testing:  
In determining whether to test and whether or not an employee may continue to remain on duty, the supervisor shall address the following decision points:

- (i) Does testing appear to be mandatory pursuant to this policy or do circumstances exist that would allow the supervisor, in consultation with a member of the Substance Assistance Team (SAT), to decide not to test?
- (ii) If a mandatory test occurs and the alcohol screen is negative, should the employee be allowed to return to work? If the supervisor suspects that the employee may be under the influence of a substance other than alcohol, or if other factors, such as physical injury or emotionally upset, would interfere with the employee's ability to function safely, then the employee should not be permitted to return to work. In circumstances where these concerns are not present, a supervisor may authorize the employee to return to full duty.
- (iii) If an employee is not permitted to return to work after testing, the employee should be transported home or to another safe place as the circumstances may dictate.

c) Procedures of Substance Testing:

If an employee is to be tested pursuant to this policy, testing for both drugs and alcohol should be conducted as soon as possible after the occurrence. The employee's immediate supervisor should contact Human Resources or a member of the Substance Assistance Team (SAT) to obtain authorization. An employee required to be tested under these circumstances may be transported to the testing site by the employee's supervisor. If an employee fails or refuses to take an alcohol test within two (2) hours after the accident, the supervisor or any supervisor should prepare and keep a memorandum stating why the test was not taken within two (2) hours. If the alcohol test is not administered within eight (8) hours after the accident or incident, the supervisor shall cease attempts to require the test and shall describe the reasons the test was not administered in a memorandum. If an employee fails or refuses to take a drug test within thirty-two (32) hours after the accident or incident, the supervisor shall cease attempts to require the test and shall prepare a memorandum stating why the test was not administered. The employee shall remain available for testing after an accident or incident, or shall be considered as having refused to be tested. An employee who

requires testing may leave the scene of the accident to obtain emergency assistance or to obtain medical attention. However, the obligation remains upon the employee to be available for testing as soon as possible after the accident or incident. Contact information for testing after normal business hours is available through the Substance Assistance Team (SAT).

3. Reasonable Suspicion Substance Testing:

An employee shall be tested for alcohol and drugs at any time while on duty or immediately thereafter if the supervisor has “reasonable suspicion” that the employee has engaged in conduct prohibited by this policy regardless of whether the employee is “under the influence” of substances while on duty. Employees in possession of illegal drugs while on duty, unless required in the performance of their duty, will be tested.

a) Observations to Determine Reasonable Suspicion Substance Testing:

Reasonable suspicion is a belief based on objective facts sufficient to lead a reasonably prudent person to suspect that an employee has engaged in conduct prohibited by this policy. The supervisor shall base the decision on specific, present, and particular observations of the employee’s appearance, behavior, speech, or body odors, including indications of the chronic and withdrawal effects of alcohol and illegal drugs. Observations which constitute a factual basis for determining reasonable suspicion may include, but are not limited to, the following behaviors or signs: odor of an alcoholic beverage, slurred speech, erratic behavior, violent mood swings, excessive or unexplained absenteeism, including tardiness, or an accident which was caused by the apparent action or inaction of the employee.

b) Who to Consult Before Making Final Decision:

The supervisor shall make a reasonable effort to consult with a member of the Substance Assistance Team (SAT) or his/her Department Director before ordering a reasonable suspicion test. If unable to contact any of the above group, the supervisor is responsible for making the decision to test based on reasonable suspicion.

c) Reasonable Suspicion Testing Procedures:

The person who makes the observation shall not be the same person who administers the alcohol or drug test. An employee who is tested based on reasonable suspicion shall be transported to the test site and then to the employee's home or other safe place by the supervisor or a responsible person designated by the supervisor. If the employee has left the worksite prior to being able to be transported to the test site, the employee shall be responsible for transportation to the test site pursuant to the timing below, or may return to the worksite to be transported.

d) Reasonable Suspicion Testing Time Limits:

The employee who is suspected of prohibited conduct with regard to use or abuse of alcohol or drugs can only be tested if the observations are made during, immediately before, or immediately after the employee's work time. If the employee fails or refuses to be tested for alcohol or drugs within two (2) hours of the observations, the supervisor should prepare a memorandum stating why the test was not promptly administered. After eight (8) hours, the supervisor shall cease attempts to require an alcohol test and shall prepare a memorandum stating the reasons for not administering the test. A drug test may be administered more than eight (8) hours after the observations if the supervisor provides written justification for the delay. After thirty-two (32) hours, the supervisor shall cease attempts to require a drug test and shall prepare a memorandum stating the reasons for not administering the test.

e) No Work Following Reasonable Suspicion Observations:

If the supervisor requires that a reasonable suspicion test be performed, the employee shall not be permitted to work until negative results of all tests are received or the employee's Division Manager has approved his/her return to duty, after consult with the Human Resources Director, or Designee. The employee may be placed on paid leave pending results.

4. Procedures for Random Substance Testing:

Random drug and alcohol screening of employees working in safety-sensitive positions shall be conducted according to the selection processes and procedures set forth herein.

a) Random Substance Testing Selection Method:

Employees will be selected for random testing only when on duty. The selection of safety-sensitive employees for random testing is made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with the employee's identification number. Each employee has an equal chance of being tested each time a selection is made. There are no limits on the number of times an employee may be randomly selected for testing. Fifty percent (50%) of all employees in safety-sensitive positions not covered by the Federal Department of Transportation regulations will be randomly selected annually for controlled substance and alcohol testing.

The Fire Department employees in safety-sensitive positions will be randomly selected by scientific methods according to station and date. The proportion of CDL holders tested will be based on the annual directive of the Department of Transportation.

b) Notification:

When the Human Resources Department receives notice that particular employees have been randomly selected for testing, the supervisors of the employees will be notified. The supervisor shall notify each employee when the employee is selected for a random test.

c) Random Substance Testing Procedures:

CDL employees performing a safety-sensitive function when notified of a random test shall cease work and proceed to the test site as soon as possible. The City test site shall be designated by the Human Resources Director, or Designee. Safety-sensitive employees are required to be at the testing site within two (2) hours after notification, unless excused by the Human Resources Director, or Designee, the employee's Department Director or Division Manager, or Designee, of these individuals. If an employee tests positive for alcohol, the employee's supervisor shall arrange to transport the employee home or to another safe place.



d) Return to Work After Positive Test:

If an employee is permitted to return to work after a violation of this policy, the employee must be tested for alcohol and drugs. The test results must indicate an alcohol concentration of less than point zero two (0.02) BAC and be negative for drugs before the employee returns to work, or the employee's Division Manager has approved his/her return to duty, after consult with the Human Resources Director, or Designee.

5. Follow-up Testing Pursuant to Continued Employment Agreement:

When an employee tests positive for either alcohol or drugs, admits to alcohol or drug use, or the City is aware of clear and convincing evidence that would give rise to concerns of substance abuse that has or would affect an employee in a safety-sensitive position from fulfilling his/her job duties, the City may elect to have the employee evaluated by a substance abuse professional designated by the City. If the substance abuse professional recommends that the employee needs assistance in dealing with an alcohol and/or drug abuse problem, and if the employee is permitted to return to work, the employee shall execute an agreement that addresses conditions of continued employment, including mandatory treatment and unannounced follow-up alcohol or drug tests. The number, type, and frequency of the tests will be decided by the Human Resources Director, or Designee, and the Department Director based on the recommendation of the substance abuse professional. There will be up to six (6) tests in the first twelve (12) months following the employee's return to work unless more frequent or more extensive testing is recommended by a substance abuse professional. Follow-up testing may occur up to sixty (60) months after the date of the employee's return to duty. Follow-up alcohol and substance tests shall be in addition to, and not a substitute for, any other testing required or permitted by these rules.

6. Special Testing:

The Police Chief may authorize on-demand controlled substances screening of police officers assigned to narcotics interdiction.

**(K) General Substance Testing Procedures:**

The City contracts with a clinical laboratory that is certified by the Substance Abuse and Mental Health Services Administration (SAMHSA). The testing facility will collect samples in such a manner so as to ensure a high degree of security for the sample, and to ensure the sample is free of

contamination. Trained professional technicians will conduct the collections following procedures intended to preserve the employee's right to privacy as much as possible under the circumstances.

1. Split Specimen Substance Collection:

A split specimen collection will be done by dividing the urine into two (2) specimen bottles. The initial test and confirmatory test will be performed on the first specimen and, if requested by the employee, an independent test will be performed on the second specimen at the employee's cost.

If the test results of the first split or primary specimen are positive, the employee may request the Medical Review Officer (MRO) send the second (or split) specimen to a different SAMHSA certified lab for testing. The test will be for the presence of drugs with no cut-off levels. If the result of the independent test of the split specimen is negative, the MRO will determine the outcome of the inconsistent test result. If the employee wants the split specimen tested, the employee must advise the MRO within seventy-two (72) hours of being notified of the positive test result of the primary specimen.

2. Release of Results and Records Regarding Substance Testing:

Results of confirmed positive drug and alcohol tests will be released to the Human Resources Director, or Designee, and the employee's Department Director, as well as, those determined by the Human Resources Director, or Designee, to have a need to know the results. The City will not release test results to others, such as a future employer, unless the employee specifically requests the release in writing or as required under DOT regulations for CDL holders. The City may make the authorization for release of previous records a requirement for employment. The Human Resources Department will keep a confidential record in a file separate from the employee's file showing the type of test (pre-employment, random, or suspicion testing), date of collection, location of collection, entity performing the collection, name of the lab, name of the MRO, and the test results. Positive alcohol or substance screen results may be included in the employee's personal file as documentation in a disciplinary action. The City will provide copies of this file to the employee upon written request. Confidential information obtained by the City pursuant to this policy may be disclosed in litigation against the City, in the context of an administrative process such as a grievance or disciplinary hearing, or in a Workers' Compensation, unemployment

compensation, or other proceeding initiated by or on behalf of the employee.

3. Non-DOT Pre-Employment Testing:

Rapid substance screen tests may be used for non-DOT pre-employment testing when deemed appropriate by the Human Resources Director, or Designee. The specimen will be collected and tested for temperature, physical characteristics, and drugs. If the test is negative, the employee will have successfully passed the pre-employment substance screen. If the test is non-negative, the result will be considered inconclusive and the sample will be sent for a second test to a SAMHSA certified laboratory for confirmatory testing.

**(L)Discipline Regarding Substance Abuse:**

If an employee tests positive after taking a drug or alcohol test, the Department Director may impose disciplinary measures up to and including termination. Past work performance and violations of City or department rules, or standard operating procedures will be considered prior to the implementation of disciplinary measures. Aside from these considerations, discipline will be applied uniformly for all personnel who test positive for drugs or alcohol.

While it is not the intent of this policy to define or restrict disciplinary measures that may be given to employees who test positive from a drug or alcohol test, and/or a substance use- or abuse-related event, the following minimum discipline will apply:

1. First Offense – either first positive drug or alcohol screen, or first discipline related to a substance use- or abuse-related event:

All Employees (exception listed below)	Forty (40) Hour Suspension
Fire Employees on Twenty-Four (24) Hour Shift	Fifty-Six (56) Hour Suspension

More severe disciplinary measures may be considered based on the action or inaction of the employee in the events surrounding the first offense. Exacerbating circumstances may include, but are not limited to, substandard job performance, absence from work without approval, insubordination, accidents related to drug or alcohol use, failure to cooperate in an investigation, dishonesty, or an inability to provide a negative drug screen for a return to work test.

2. Second Offense – either second positive drug or alcohol screen, or second discipline related to a substance use- or abuse-related event:

All Employees	Dismissal
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## **XV. Miscellaneous Provisions**

### **(A) Employee Attire and Appearance:**

1. Uniformed Employees:

The City shall provide uniforms to all employees whose position requires special identification and to other City employees where work clothes would be the normal type of attire. City uniforms shall be worn at such times and in accordance with such other standards as may be specified by the employee's supervisor and department. Employees who receive City uniforms shall not in any way modify or alter such uniforms without the express permission of their supervisor. All uniforms will be worn in accordance with the manufacturer's intended appearance of the uniform as provided. For the full policy, please refer to the City's Administrative Memos on the Intranet.

2. Non-Uniformed Employees:

Employees who do not wear City uniforms shall dress in a manner that projects a positive, professional image for the organization. All non-uniformed employees will wear appropriate attire as determined by the Department Director, except when an employee's normal job duties require the employee to work in an environment reasonably likely to result in the soiling of the employee's clothing. Non-uniformed employees who are required to work in an environment likely to result in the soiling of their clothing may wear appropriate work clothing.

3. Appearance of Employees:

All City employees' appearance shall be one that reflects a positive, professional image for the organization. Supervisors may require employees to make modifications to their appearance if they deem it unprofessional.

4. City Employee Identification Card:

All City employees shall wear a City I.D. while at work. For the full policy, please refer to the City's Administrative Memos on the Intranet.

5. Disputes Regarding Attire and Appearance:

Supervisors are responsible for enforcement of the attire and appearance policy. In the event of a dispute between an employee

and a supervisor regarding the question of whether the employee's attire or appearance is in compliance with the provisions of this section, the dispute shall be referred to the employee's Department Director whose decision regarding the matter shall be final.

**(B) City Property:**

All City employees use or are provided various items of equipment, supplies, and vehicles that are to be used during the course of fulfilling assigned responsibilities. Items that are for individual employee's use, such as an I.D. card, uniforms, keys, and similar items shall be returned upon the employee's separation.

Employees are responsible for the proper care and use of all City property used or in their possession, and shall be subject to disciplinary action, including dismissal, for improper care, use, or disposition of City property. Upon separation, a portion of the employee's final payroll check may be withheld and criminal action may be pursued until City property in the possession of the employee is returned and is found to be in proper condition.

**(C) Employer Right to Search:**

The City reserves the right to inspect and search all employee work areas and personal items located in the work area or on City property.

**(D) Computer Use:**

Employees may be provided with computer equipment, internet access, and electronic mail as tools to be used to perform their position duties. The City has established software piracy and electronic access policies that all employees are expected to review and adhere to, prior to using these tools. Inappropriate or excessive personal computer use is cause for disciplinary action, up to and including termination.

**(E) Personnel Records:**

1. **Privacy Regarding Personnel Records:**

Individual personnel records shall be closed for inspection to the public according to Colorado Revised Statute Section 24-72-204(3) (a) (II). The employee, the employee's supervisors, the City Manager, or Designee, the City Attorney's Office, and employees of the Human Resources Department shall have access to the individual employee's personnel file. A strict need to know criterion shall be utilized in the dissemination of any information from the personnel files, as

determined by the Human Resources Director, or Designee. No personnel files, or portion thereof, shall be removed from the Human Resources Department without the specific authorization of the Human Resources Director, or Designee.

2. Requests for Employee Information:

Requests are often made by various organizations or individuals for information about past and present employees' addresses, phone numbers, job title or occupation, salary, work history, and occasionally job performance or financial status.

All requests for information about employees shall be directed to the Human Resources Department. The Human Resources Department shall not release any information without express consent of the employee except as required by State or Federal law. It is assumed that employment verifications have been authorized by the employee in the cases of application for credit or employment, thus information regarding date of hire and/or separation and salary levels may be released. Numerically based performance rating sheets shall be released only as required by State law.

Requests for verbal or written personal recommendations may be handled by the specific individual listed by the employee. However, any official City employment record, i.e., disciplinary memoranda, etc., may be released only through the Human Resources Department and then only with the written consent of the employee.

**(F) Colorado Open Records Act:**

The City of Westminster, like all governmental entities in the State of Colorado, is subject to the Colorado Open Records Act (CORA). This means that any person can request, inspect, and receive copies of most public documents kept by the City.

The City takes the personal privacy and security of its employees seriously. To the greatest extent allowed by law, the City will not disclose personal addresses, personal phone numbers, personal email addresses, photographs, personnel files, or other personal information. However, certain information including, but not limited to, the names, positions of employment, and salaries of public employees are subject to public disclosure under CORA. Any employee of the City should expect that this information may become publicly available if requested.

**(G) Personnel Records Maintenance:**

The official personnel records of the City shall be maintained on all City employees by the Human Resources Department. All official written disciplinary actions shall be forwarded to the Human Resources Department for inclusion in the employee's personnel file. This official personnel file includes, but is not limited to, the following: records documenting promotions, reclassifications, pay increases, hiring and separation, copies of all written disciplinary actions against the employee, performance expectations memos, letter of commendation, training certificates, copies of education and training request forms, performance evaluations, the employee's employment application and any other documents containing information directly related to the employee's employment with the City with the exception of those documents listed below. Although departments may maintain secured informal files on actions taken on an employee, the only official personnel file shall be the file maintained by the Human Resources Department.

Official actions received by Human Resources to be placed in an employee's file will be considered a part of the permanent record. Thus, memoranda which cite a specific date for the removal of the document from the file are not appropriate.

Documents which shall not be included in an employee's official personnel file include letters of reference, medical, dental and life insurance beneficiary and dependent information, pre-employment report including, results of any medical, psychological or polygraph tests, interview notes, background information that may have been conducted as part of the initial screening of applicants or subsequent employment, documents directly related to a grievance of a disciplinary action, not including documentation of the disciplinary action itself, and test questions or scoring keys on an employment examination except results of promotional examinations.

**(H) Notification of Changes in Employee Information:**

All employees are required to notify the Human Resources Department of any change in home address and telephone number as soon as practicable after the change takes place. Employees are also required to notify Human Resources of any changes affecting City benefits including changes in dependents in the health benefit plan.



**(I) Bulletin Boards:**

The City of Westminster maintains two types of bulletin boards throughout its facilities: City bulletin boards and employee bulletin boards. Both are placed at convenient places in principle locations. These boards are the only places where notices will be permitted to be posted. Special notices and other information from the City are posted on the City bulletin boards. It is to the employee's advantage to consult these boards regularly.

**(J) Solicitation:**

Employees may not engage in solicitation or in the distribution of non-work related information or materials of any type for any purpose during work time. Exempted are those items specifically related to City and department activities, such as the annual City charitable drive or other activities supported by the City or the department. Employees are not prohibited from solicitation or distributing information or literature, as long as, the employees involved are on work breaks away from the work station and not interrupting other employees who are performing work duties.

Solicitation includes, but is not limited to, providing catalogs to employees to purchase items, asking for contributions to various profit or nonprofit causes, soliciting membership to any organization, selling goods or services whether for profit or not, arranging for parties at which merchandise is sold, using the City distribution system to disseminate sale literature, and using the City telephone or electronic mail system to contact other employees at work to solicit a sale.

Non-employees are prohibited from selling, canvassing, soliciting or distributing goods or materials of any type, or engaging in partisan political activities at City facilities. However, with the permission of the City Manager, or Designee, businesses may provide printed material that will be made available to employees in the employee break rooms. The Human Resources Department shall be responsible for the distribution of these materials. This provision does not include business persons or vendors who are in the process of conducting business with the City or distributing goods ordered by the City.

Anyone wishing to use City facilities as a place of distribution of noncommercial information, materials or collection of funds or goods for any purpose must have the specific permission of the City Manager, or Designee. For the full policy, please refer to the City's Administrative Memos on the Intranet.

**(K) Consumption of Alcohol in City Facilities:**

With the exception of the consumption of alcohol in City parks and in recreation centers which is, by ordinance, under the authority of the Director of Parks, Recreation and Libraries, the consumption of all types of alcoholic beverages by City employees and others is prohibited in all City facilities and on City property unless specifically authorized by the City Manager, or Designee.

**(L) Smoking Prohibited in all City Facilities and Vehicles:**

Per the Westminster Municipal Code (W.M.C.), Title VI, Chapter 13 concerning Clean Indoor Air, smoking will not be permitted indoors in City facilities, including garage bays, greenhouses, Quonset huts or other enclosed areas. Smoking in City vehicles is prohibited, including the use of Electronic Cigarettes. For the full policy, please refer to the City's Administrative Memos on the Intranet.

**(M) Performance Appraisals:**

A performance appraisal is the supervisor's assessment of an employee's performance and not grievable by the employee. The employee is allowed to give feedback of the appraisal in a section specifically set aside for employee comments. The performance appraisal is a formal document and will be filed in the employee's personnel file. Performance appraisals for all regular, probationary, and part-time employees will generally consist of:

1. Employee written self-appraisal;
2. A written evaluation completed by the supervisor; and,
3. An appraisal meeting involving the supervisor and the employee whose performance is being appraised.

All Non-Exempt probationary employees will generally be given a performance appraisal upon the completion of six (6) months of service, upon one (1) year of service and annually thereafter during the period in which their anniversary date occurs, or more frequently at the discretion of the supervisor. All Exempt employees, Department Directors, and Division Managers will generally receive an appraisal annually at the same time salary adjustments are being considered just prior to the new calendar year.

**(N) Criminal Activity:**

Supervisors shall notify the Police Department of any criminal activity or potentially criminal activity that takes place on City property or involves City programs and/or employees. Supervisors shall notify the Human Resources Director, or Designee, only in cases where an employee may have perpetrated or been an accessory to criminal activity.

**(O) Employee as Contractor/Vendor:**

Employees are generally ineligible to bid on City contracts or as a provider of vendor services either as an individual or through a company in which they are a principal.

1. Exceptions may be granted by the City Manager, or Designee, when no conflict of interest exists.
2. City employees must report when their relative, either as an individual or through a company in which they are a principal, is being considered as a vendor or contractor.
3. Generally, the City will not enter into a purchase, rent or lease of goods agreement or contract for services with an employee, or near relative (as defined for this purpose as a spouse, significant other, child, parent, siblings, step relatives and in-laws in the same relationship or person living in the same household) unless authorized by the City Manager, or Designee.

**(P) Affordable Care Act - Reporting Periods:**

A requirement of the Affordable Care Act (ACA) is that employers define a reporting period for measurement purposes. The City has selected the reporting period of October 1st - September 30th for all non-benefited employees who have worked at the City for more than one (1) year. The ACA also requires separate reporting periods for new, non-benefited employees, which is measured on an individual basis and based on start date.