

PERSONNEL POLICIES AND RULES

March 1, 2019



WESTMINSTER

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City of Westminster |
Personnel Policies and Rules

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PERSONNEL POLICIES AND RULES

January 1, 2019

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 Heads and Division Managers are at-will employees. A Department Head 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.

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 guide.

Board:

The Personnel Board.

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.

Consolidated Omnibus Budget Reconciliation Act (COBRA):

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

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.

Continuous Municipal Service:

Uninterrupted length of service in a position or positions designated as receiving General 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 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.

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.

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.

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 Head:

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 head by the City Manager. The City Manager, Deputy City Manager, and the City Attorney shall assume duties assigned to department heads in these rules for carrying out those actions involving positions that report directly to them.

Disciplinary Action:

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

Division Manager:

An individual appointed by the department head to manage a work group designated as a division within the department. For purposes of these rules, the City Manager, Deputy City Manager, department head, or the City Attorney shall assume the responsibilities assigned to division manager when the employee in question reports to a department head, the City Attorney, Deputy City Manager, or the City Manager.

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 Head, Division Manager, temporary, provisional, 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 Head, Division Manager:

An exempt employee whose positions are listed in the Department Head/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 a 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--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-- 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--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--Provisional:

An employee who has received a temporary appointment to a position, due to a vacancy or extended absence of the incumbent.

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--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--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.

Employee--Indexed: An employee who has received an appointment to serve for a period of time indexed to a particular workload level, funding source or other criteria established by City Council.

Employee--Intern/Apprentice/Trainee:

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

Employee--Special Project:

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

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.

FMLA:

Family Medical Leave Act.

FTE:

Full -Time Equivalent.

Fair Labor Standards Act (FLSA) 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.

Fringe Benefit:

Any form of compensation in addition to the base salary as adopted by Council. General Leave, health and life insurance, uniforms, cleaning allowance, educational reimbursement, safety shoes, and other benefits are some examples of fringe benefits. Employee regular and employee part time regular 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.

General Leave:

Accrued time off available to benefited employees for use as vacation, illness, off-the-job injury, medical/dental appointment, pregnancy, personal business, child care emergencies, family emergencies, adoption, FMLA, family care, bereavement, elder care, wellness, volunteer, City sponsored events, or for any other valid absence as determined by the employee's supervisor.

Good Standing:

Good standing is a designation that may be given to employees who leaves 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.

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.)

HIPAA:

Health Insurance Portability and Accountability Act.

Holiday:

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

Job Description:

The written description of a class, including the title, a statement of the nature of the work, examples of duties and responsibilities, and the requirements that are essential and desirable for the satisfactory performance of the duties of the class.

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 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.

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, usually as a result of a competitive recruitment process.

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.

Reduction in Force (RIF):

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

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 or half-sister, or any of those relationships arising through adoption or civil union pursuant to Colorado law.

SAMHSA:

Substance Abuse and Mental Health Services Administration.

Scheduled Work Day:

The hours specified by the department head or division manager for which an employee receives the employee's base salary.

Scheduled Work Period:

The work period specified by the department head 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.

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.

Substance Assistance Team (SAT):

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.

Supervisor:

Any individual having authority, in the interest of the City, to hire, transfer, suspend, lay off, 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 judgment. Appointing authority and hiring.

Suspension:

The temporary separation of an employee from performing their regularly assigned duties with or without pay for disciplinary reasons, or pending the outcome of an investigation involving the employee.

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 head 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 and the Charter.

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 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 toward 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 or amendments 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.

(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 perform satisfactorily 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 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 head. 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 heads 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 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 an appropriate reclassification. The City Manager 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 an eligibility list for a period of up to one (1) year, awaiting possible appointment to a 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 heads, 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 for adoption on a biennial basis in order to maintain the competitive nature of the City's personnel program.

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

Exempt employees, Department Heads 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 head, as well as the Human Resources Director. The City Manager, or Designee will review all Department Heads, 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 or 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 head. 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 in six (6) month increments if job performance is not satisfactory. 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 head. 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 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 a 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 may authorize Department Heads 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. When authorized, Department Head's 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. pension contributions). The granting of voluntary furloughs is at the discretion of the department head based on operational needs and employee performance.

(Q) Mandatory Furlough:

The City Manager 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 head 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 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 (\$1000.00) will be based on exemplary job performance or cost saving suggestions based on the recommendation of the employee's division manager and the approval by the department head. Bonuses in excess of one thousand dollars (\$1000.00) may be recommended by the department head 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. Employees may be eligible for merit awards when required to do work temporarily that is considered to be substantially above and beyond the normal requirements of their positions.

(S) Overtime Pay:

Non-Exempt employees will receive overtime compensation at the rate of one and one-half (1 1/2) 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 for 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.

Holiday cash-out hours shall not be included in the computation of hours worked for overtime purposes. Overtime pay shall not be provided when employees are cashing out a holiday pursuant to Section IX of these rules.

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 (1/2) 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) 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.

- (U) 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.

- (V) 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.
- (W) 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 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.
- (X) 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.
- (Y) 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.
- (Z) 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.
- (AA) 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 26.0714 and then dividing by eighty (80) hours. The hourly pay for Fire Department personnel working on twenty-four (24) hour shifts is computed by dividing the base annual salary by two-thousand nine-hundred and twenty (2920). 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 1/2).

Half time overtime will be computed by multiplying the hourly equivalent base wage times one-half (1/2).

(BB) 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.

(CC) 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.

(DD) Erroneous Payments to Pension 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.

(C) Announcements:

All authorized position openings in the municipal service, with the exception of those noted in this paragraph, 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 appointment, transfer, reclassification, demotion, eligibility list 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 general 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 department or 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 the employer'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 or Designee 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 a final offer. Post-offer substance screens, physicals and medical psychological assessments may be required. Final offers are subject to passing mandated post-offer assessments. New benefited employees must complete a benefited orientation on the first date of benefited employment. 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) Nondiscrimination:

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) Promotional/Transfer Examinations:
Promotional/Transfer examinations may be limited to employees who meet the minimum qualifications and are in good standing. Admission to promotional/transfer examinations may be restricted by the Human Resources Director or Designee to regular employees of a specific division or department when such action is in the best interest of the City as determined by the Human Resources Director or Designee in consultation with the appropriate division manager.
- Promotional/Transfer examinations shall be conducted in the same manner as original appointment examinations.
- (K) 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 reemployment. All accrued rights, privileges, or benefits of previous City employment are null and void upon separation.
- (L) 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.
- (M) 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.
- (N) 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.
- (O) 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.

(P) 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.

(Q) 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 fill the position vacancy according to these rules.

(R) Temporary, Intern, Instructor, Substitute, Hourly or Seasonal Positions:
Recruitment, selection, and appointment to temporary, instructor, intern, 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.

(S) Department Heads, Division Managers and Exempt Positions:
Selection procedures for each individual position will be established by the Human Resources Director or Designee and approved by the affected department head, or City Manager if a Department Head or Division Manager position.

(T) 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 head 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 (FTE's) 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 pro rata 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.

(U) 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 an eligibility 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. Military veterans may be eligible to receive preference points for rehire as defined by the Colorado law. Exceptions may be granted on a case by case basis in consultation with the HR Director.

(V) Eligibility Lists:

The Human Resources Director or Designee shall administer and maintain such eligibility lists as are deemed necessary and appropriate for, promotion, reduction in force or original appointment. These lists may be established for a period of up to twelve (12) months and may be ranked or unranked. Exceptions may be granted on a case by case basis in consultation with the HR Director.

(W) 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 professional 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.

(X) Residence:

Employees who serve in an emergency or on-call capacity may be required to live within a certain radius of the City of Westminster or to meet a designated response time as determined by the City Manager or the department head.

(Y) 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.

(Z) Categories of Appointment:

All appointments by an appointing authority shall be made into one of the following categories and description 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 hearing 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 and are not eligible for City fringe benefits unless authorized by the Human Resources Director. 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. Indexed Appointment:
Employees in this category are indexed to a particular workload level, funding source or any other criteria established by City Council. When the workload falls below the indexed level, the employee must be terminated subject to such notice provisions as may be established by the City Manager. Medical and dental insurance maybe provided and such other benefits as may be granted at the discretion of the Human Resources Director. Indexed employees are subject to termination by the division manager at any time with or without cause.
6. Temporary Intern, Apprentice, Trainee Appointment:
Employees in this category serve in an intern, apprentice or trainee capacity for generally up to three (3) years. Some City fringe benefits may be provided. Temporary intern, apprentice or trainee employees are subject to termination by the division manager at any time with or without cause.
7. 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 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. 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.

8. 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 section of the annual pay plan. There is no limit to the amount of time an employee may hold a position in this capacity. 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.
9. 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. There is no limit to the length of time an employee may hold a position in this capacity. 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.
10. 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 section of the annual pay plan. Employees in this group are able to work an unlimited number of hours every year, and there is no limit to the length of time an employee may hold a position in this capacity. 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.
11. Provisional Appointment:
A department head or division manager may make a provisional appointment when a critical position vacancy occurs and, due to the length of time required to fill it or because of an extended leave of absence, it becomes necessary to appoint a replacement on a "provisional" basis. An appointment shall be considered provisional should the individual serving in the temporarily vacant position having a higher pay classification be required to do so for a period of more than eighty (80) consecutive work hours, or one-hundred and twelve (112) hours for firefighting and emergency medical personnel. Should a temporary appointment, originally intended not to exceed eighty (80), or one-hundred and twelve (112) hours consecutive hours, extend beyond eighty (80) hours, or one-hundred and twelve (112) hours, payment for the provisional status shall be made retroactively.

Provisional pay for non-exempt employees serving in non-exempt positions on a provisional basis shall be moved to the first step of the range of the vacant position or will typically receive up to a five percent (5%) increase over their current salary, whichever is higher, as long as the increase does not exceed the

last step of the range for the vacancy. Employees serving on a provisional basis in an exempt or Department Head or Division Manager position shall receive the level of compensation determined by the Human Resources Director or Designee. Salaries established will remain the same during the entire provisional appointment unless otherwise authorized by the Department Head or Division Manager.

The employee may be allowed by the Human Resources Director or Designee to credit the time served in a provisional status toward completion of the probationary period, should a probationary appointment to the position occur immediately subsequent to the provisional appointment.

12. Emergency Appointment:

In an emergency, to prevent undue delay or serious interferences with the provision of necessary public services, a division manager 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.

13. Department Head, Division Manager Appointment:

Department Head and Division Manager Positions receive salaries within the parameters of the existing pay plan as determined by department heads, with the approval of City Manager. Part-time Department Heads and Division Managers will be paid on a salaried basis, prorated based on their full-time equivalency. Department Heads and Division Managers are entitled to the fringe benefits approved by City Council.

Department Heads and Division Managers shall be subject to termination at the discretion of the City Manager. 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. Department Heads and Division Managers do not have appeal rights to the Personnel Board.

a. Department Heads:

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

b. All Other Department Heads, Division Managers:

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

14. 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.

(AA) Lateral Transfer:

At the City's option, a position may be filled by transferring an employee from one position to another, as long as the employee meets the minimum qualifications. Intradepartmental transfers must be approved by the Human Resources Director or Designee and affected department heads. A transferred employee's anniversary date may be revised. The City Manager may initiate the interdepartmental transfer of an employee, with or without the consent of the employee, if the City Manager 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 shall not be subject to advertising requirements.

A department head may initiate a transfer of an employee within the department, with or without the consent of the employee, if the department head 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 head 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, either through an original appointment, appointment from an eligibility list or 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 division manager and concurrence of the Human Resources Director or Designee.

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 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 notified in writing thereof by the division manager. Probationary employees shall also be notified in writing when their probation 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 head may dismiss an employee if, after the employee has an opportunity to respond to the reasons for the dismissal, the department head determines that the dismissal is appropriate. Prior to taking the dismissal action, the department head shall consult with the Human Resources Director or Designee and a City Attorney Office representative. The official notification

of removal stating the reasons for dismissal shall be provided to the employee by the department head. 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 an evaluation conference with the probationary non-exempt employee. The primary purpose for this conference shall be to inform the employee of their progress and to discuss the employee's performance.

The conference 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 an annual basis. Part-time regular employees authorized for less than twenty (20) hours per week may receive a performance review based on an abbreviated performance review format approved by the Human Resources Director or Designee.

IX. WORK POLICIES AND LEAVE PROVISIONS

(A) Hours of Work:

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 arrive at their designated work site prior to their scheduled work time and should leave the site at the end of their work period. 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. 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 six (6) hours per period shall be allowed a one-half (1/2) to one (1) hour lunch break approximately at the midway point of their work period 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 purposes unless required by FLSA.

At the discretion of the department head, 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 1/2) 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 work site that they can respond within thirty (30) minutes or less after being called. Exact response time shall be determined by the department based on operational needs. 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 pager or telephone and asked to respond whenever possible to emergency calls for additional work. Employees are expected to respond to pages and telephone calls the majority of the times the supervisor calls them. It is understood that there will be times when the employee is unavailable because they are out of town, have previous personal commitments they are unable to change, or are under the influence of alcohol or drugs. If the employee is not required to respond within the thirty (30) minute time frame required for paid mandatory on-call duty, the employee will not be compensated for wearing a pager or cell phone. 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) General Leave:

This leave may be provided to benefited employees to use for: vacations, illness, off-the-job injury, medical/dental appointments, personal business, child care emergencies, pregnancies, facility closures, family emergencies, parental leave, family leave, bereavement leave, elder care, City- sponsored events, or for any other valid absence as determined by the employee's supervisor. Employees will be allowed to use General Leave when participating in approved City-sponsored events.

Employees testing or interviewing for a City position, will not be required to use general leave during the formal recruitment process when scheduled during their regular work schedule.

General Leave accrual and available maximum allowable will be pro-rated based on benefited FTE. General Leave accrued shall be in working hours upon completion of each full pay period. The amount of General Leave to be charged shall be determined by adding, to the nearest quarter hour, the total working hours absent. There shall be no maximum on the amount of General Leave that may accrue.

(H) General Leave Accrual Rate:

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

General Employee Hired Before June 30, 2010:

<u>Years of Continuous Municipal Service</u>	<u>Accrual Rate Hours Per Pay Period</u>	<u>Accrual Rate Hours Per Year</u>
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

General Employees Hired After June 30, 2010:

<u>Years of Continuous Municipal Service</u>	<u>Accrual Rate Hours Per Pay Period</u>	<u>Accrual Rate Hours Per Year</u>
Less than 5	5.45	142
5 – 10	6.37	166
Over 10	7.29	190

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

Firefighting or Emergency Medical Personnel Hired Before June 30, 2010:

<u>Years of Continuous Municipal Service</u>	<u>Accrual Rate Hours Per Pay Period</u>	<u>Accrual Rate Hours Per Year</u>
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

Firefighting or Emergency Medical Personnel Hired After June 30, 2010:

<u>Years of Continuous Municipal Service</u>	<u>Accrual Rate Hours Per Pay Period</u>	<u>Accrual Rate Hours Per Year</u>
Less than 5	7.63	199
5 - 10	8.90	232
Over 10	10.20	266

(I) General Leave Request and Approval:

Any employee wishing to use General Leave must obtain prior approval from the employee's supervisor. 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 not later than thirty (30) minutes prior to the normal scheduled starting time. Departments may establish earlier notification requirements, should unique work group needs necessitate additional lead time notice. Upon notification, the supervisor may grant General Leave, if determined that the workload demand is manageable with the absence of the employee.

All grants of General Leave must be accurately reported on time sheets.

(J) Personal Business Leave:

This leave will be limited to thirty (30) hours each calendar year and must be approved in advance by the employee's supervisor. Approved personal business leave is restricted to a maximum of ten (10) hours per occurrence, and generally not taken in conjunction with holiday, or vacation leave. Other examples of Personal Business Leave may include: loan closing, community volunteering, home repairs, appointments with attorneys and school events and activities.

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 personal business leave, or unpaid family 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.

(K) Leave for Probationary Employee:

Probationary employees shall be entitled to use General Leave the same as regular employees except for vacations. Probationary employees may schedule a vacation only after six (6) months of continuous employment, unless a written waiver from the division manager is obtained. The limitation on vacation use does not apply to employees on promotional probation.

(L) General Leave for Vacations:

Employees shall be allowed to take at least the minimum annual vacation in not less than one (1) hour units during each full calendar year of service with prior approval as established by the schedule below. Employees not using the minimum amount of annual vacation for any full calendar year of employment will have their leave bank reduced by the difference between the vacation used and the minimum vacation required for the year. This reduction of leave hours will take place the following year. No cash value shall be given to the unused minimum vacation leave that an employee is charged. It is the intent of the City as reflected in this provision to strongly encourage employees to take minimum vacation leave each year using General Leave. Employees must have leave hours in their leave bank to cover requested vacation leave time unless a prior advance of General Leave is obtained from the Human Resources Director or Designee. Advances for vacation leave will be made in very limited circumstances.

The Human Resources Director or Designee may waive the required reduction of an employee’s General Leave balance by the amount of unused minimum Annual Vacation Leave, if the employee experienced considerable absence during the calendar year due to illness or for other valid reasons as determined by the Human Resources Director or Designee. Employees wishing a waiver shall submit a written request through their division manager for submission to the Human Resources Director or Designee for approval.

The time at which an employee may take vacation shall be determined by the division manager. Employees who have been allowed to exceed the scheduled maximum allowable annual vacation during one calendar year will have the following calendar year's maximum allowable vacation time decreased by the excess of the prior year.

The charts below show the minimum and maximum leave for progressively higher number of years of service for employees. During the calendar year in which the employee's fifth (5th), tenth (10th), fifteenth (15th) and twentieth (20th) employment anniversary date occurs, employees will have the advantage of using the lower length of service required minimum and may, at their option, use up to the maximum of the higher length of service.

1. The schedule for minimum and maximum allowable vacation each calendar year for all employees except firefighting and emergency medical personnel working an average of one hundred and twelve (112) hours in a two (2) week period shall be as follows:

Years of Continuous <u>Service</u>	Minimum Annual Vacation Leave <u>Hours</u>	Maximum Allowable Annual Vacation Leave <u>Hours</u>
Less than 5	40	126
5 - 10	48	150
10 - 15	64	174
15 - 20	72	198
Over 20	80	222

2. For firefighting and emergency medical personnel, working an average of one hundred and twelve (112) hours in a two (2) week period, minimum and maximum allowable vacation leave shall be determined using the following schedule:

Years of Continuous <u>Service</u>	Minimum Annual Vacation Leave <u>Hours</u>	Maximum Annual Vacation Leave <u>Hours</u>
Less than 5	56	177
5 - 10	67	211
10 - 15	90	244
15 - 20	101	278
Over 20	112	311

(M) Extended General Leave Program:

The purpose of this program is to provide an opportunity for an extended paid leave of absence to an employee who has a large number of accrued and available leave hours to pursue personal, recreational, or educational interest. In order to be eligible for the program, an employee must have a minimum of five (5) years continuous municipal service with the City and must have sufficient General Leave hours so that the balance of General Leave in the employee's leave bank at the end of the extended leave is at least one-hundred and sixty (160) hours or two-hundred and twenty-four (224) hours for firefighting and emergency medical personnel. An employee may match non-vacation General Leave hours with vacation leave hours up to the limits set forth below. An employee may not be eligible for this program sooner than five (5) years after returning from a prior extended leave under this section. In order to participate in the program, an employee must file a written request with the department head no less than ninety (90) days prior to the requested commencement date. The request must be approved by the department head and reviewed by the Human Resources Director or Designee. The department head may delay the commencement date to accommodate department scheduling needs, but may not delay the commencement date longer than one (1) year.

Employees must continue employment at least ninety (90) days beyond their return to work after an extended leave. If an employee resigns prior to the ninety (90) day limit, General Leave balances will be reduced by fifty percent (50%) of the "other" General Leave utilized while on extended leave.

Employees must match annual vacation leave with the additional General Leave hours used. The maximum additional General Leave which an employee may use in this program is as follows:

Years of Service	Annual Vacation Hours that can be used in Extended General Leave Program	Maximum Additional Extended Paid General Leave Hours	Total Hours
<u>Total</u>			
5-10	144	144	288
10 & over	168	168	<u>336</u>

The maximum additional General Leave which may be used by firefighting and emergency medical personnel in this program is as follows:

Years of Service	Annual Vacation Hours that can be used in Extended General Leave Program	Maximum Additional Extended Paid General Leave Hours	Total Hours
<u>Total</u>			
5-10	202	202	404
10 & over	235	235	470

(N) Leave for Holidays:

Benefited employees shall be allowed Holiday Leave. Designated holidays associated with facility closures are noted below. Each holiday is ten (10) hours for full-time benefited employees and fourteen (14) hours for firefighting and emergency medical personnel required to work an average of one hundred and 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. Holiday availability and usage will be tracked in a separate Holiday Leave Bank. Employees may use designated holiday leave on/or after the Holiday occurs. Exceptions to use holiday leave prior to the holiday may be authorized by the Human Resources Director or Designee.

When an employee is terminating, they are eligible to use any unused holiday hours on their final timesheet as long as the holiday has occurred. If an employee who is terminating has used a holiday that has not occurred, those hours will be deducted from their general leave cash-out or regular pay.

Employees who work a designated holiday (or the actual day of New Years, Fourth of July, or Christmas) may cash out that holiday in the same pay period or use the Holiday Leave at a later date during the calendar year. Department Heads, Division Managers are ineligible for holiday cash out. Unused Holiday Leave has no cash value and will not be carried over into the next year. An employee who works a schedule that does not take into consideration any City holidays, such as police, fire, and plant operations personnel, may cash out any designated holiday during the pay period in which it occurs. These employees may not cash out a holiday beyond the criteria defined in this paragraph.

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 fourth (4th) Thursday of November (Thanksgiving Day)
8. The twenty-fifth (25th) of December (Christmas Day)

Holidays falling on a Friday or Saturday shall be observed on the preceding Thursday; holidays falling on a Sunday shall be observed on the following Monday.

In addition to the eight (8) designated holidays, employees shall be allowed a Floating Holiday. The Floating Holiday is 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 for any employee.

Any special holidays that may be proclaimed during the year by the Mayor and City Council will be in addition to this Holiday schedule.

(O) General Leave for Illness:

Any illness or off-the-job injury necessitating employee absence shall be charged against General Leave. Employees may be required to have a duly Licensed Health Care provider sign an excuse for any absence of this nature of four(4) or more working days or when deemed appropriate by the division manager or the Human Resources Director or Designee.

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

(P) 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 and eighty (480) hours in any one (1) twelve (12) month period, not to exceed nine hundred and sixty (960) hours in a three (3) year period. Leave for pregnancy is considered major illness leave but is not included in this nine hundred and sixty (960) hours maximum over a three (3) year period.

For firefighting and emergency medical personnel required to work an average of one hundred and 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 and twelve (112) working hours may be charged to Major Illness Leave; only the amount of leave that is in excess of one hundred and twelve (112) hours may be charged against Major Illness Leave to a maximum of six hundred and seventy-two (672) hours in any one twelve (12) month period, not to exceed one thousand three hundred and forty-four (1344) hours in a three (3) year period. Leave for Pregnancy is considered major illness leave but is not included in this one thousand three hundred and forty-four (1344) 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. Employees 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 during the absence, 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.

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

Employees who have accumulated more than four-hundred eighty (480) hours of sick leave through personnel policies in effect prior to January 1, 1974, shall be required to draw on that leave under the provisions of Major Illness Leave until it is reduced to four hundred eighty (480) hours. Once the sick leave in excess of four hundred eighty (480) hours has been reduced to four hundred eighty (480) hours, then the employee may use Major Illness Leave as allowed.

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) runs concurrent with Major Illness Leave (MIL) and the two (2) weeks prior to MIL. FMLA also runs concurrent with On-the-Job Injury or Worker's Compensation.

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

(Q) Leave for Pregnancies:

Major Illness Leave for pregnancies shall be six (6) weeks or two-hundred forty (240) hours after the eighty (80) hours General Leave requirement has been achieved, for a total of eight (8) weeks. Leave will be pro-rated based on FTE. The combined General and Major Illness Leave may begin two (2) weeks prior to the expected delivery date and continue six (6) weeks beyond the use of the General Leave. Additional Major Illness Leave may be granted subject to the provisions in Section (P) when an employee is unable to satisfactorily perform required duties due to their own medical condition, either before or after delivery date. In situations where additional leave does not qualify under the Major Illness provisions, General Leave may be requested by the employee and approved by the division manager. FMLA leave may be requested by the employee and approved by the Human Resources Director or Designee.

Firefighting, Emergency Medical Personnel and Sworn Police Officers will be moved to a limited duty assignment upon notification of pregnancy. Other pregnant personnel may be assigned to other limited duty assignments with written authorization and documentation from a duly Licensed Health Care Provider or at the discretion of the Human Resources Director or Designee.

(R) Birth of a Child/Adoption Leave:

Employees who are adopting a child and fathers of newborn children may use up to eighty (80) hours of their General Leave for Parental Leave during a three (3) month period beginning at the date of adoption or birth. Fire shift personnel may use up to (112 hours) of their General Leave. Employees have fifteen (15) days to complete and turn in any additional documentation once Family and Medical Leave Act (FMLA) paperwork is turned in to the Benefits Specialist. If paperwork is not received, the employee's leave may be delayed until the certification is submitted.

(S) Family Leave:

Family Leave is for employees who are the primary care providers for their parent, spouse, partner in a civil union pursuant to Colorado law, or child up to the age of 18. This may include childcare leave used for emergency or unusual circumstances (i.e., unexpected loss of a childcare provider or for care of an ill child). This leave is not intended for ongoing anticipated events such as childcare needs, vacations, school days off, or for extending parental leave or pregnancy leave. Family leave is up to four (4) consecutive days in duration. Leave after four (4) days must qualify under Family and Medical Leave Act (FMLA) provisions.

(T) Bereavement Leave:

Bereavement Leave is up to forty (40) hours and requires supervisor approval. Factors regarding the duration are: out-of-town travel, requirements of employee to handle funeral arrangements and relationship of employee to deceased.

(U) 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 and fifty (1250) hours for the City during the previous twelve (12) month period are entitled to Family 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:

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

FMLA qualifying leave shall be charged against General Leave, Injury Leave, Major Illness Leave, On-the-Job Injury Leave, Family Leave or paid FMLA leave, to the extent the employee is entitled to use such leave. After all General Leave, Injury Leave or MIL benefits have been exhausted, remaining FMLA leave shall be continued as leave without pay, except in the case of On-the-Job Injury Leave.

Whenever the need for FMLA 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. General 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, as may be amended from time to time.

(V) Advances and Waivers on General Leave:

The Human Resources Director or Designee may waive the limitations on General Leave or grant an advance of General 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 waiving the limitations or granting an advance of General Leave, the Human Resources Director or Designee may consider pertinent facts including, but not limited to, reason given for waiver, good work habits, demonstrated reliability, conscientiousness, indications of previous leave abuse and the best interest of the City. An employee who wishes to have a waiver or an advance on General 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 waiver or advance of General 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 General Leave in excess of that which is actually accrued.

(W) Absence Without Pay:
Non-Exempt employees who have exhausted accrued General 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.

(X) Payment for Unused General Leave:
Upon separation, benefited employees shall receive full payment for General Leave that could have been used for vacation according to the maximum allowable vacation schedule for the calendar year in which the employee terminates minus the leave hours that have already been used for vacation, and receive one-half (1/2) payment for any additional accumulated General Leave hours. Employees in the first (1st) year of municipal service are eligible to receive only one-half (1/2) pay for all unused General Leave hours.

Leave shall not be authorized during the last two (2) weeks of employment, unless waived by the Department Head or City Manager or Designee. Any absence will be charged to vacation hours.

(Y) 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. Injury Leave shall be provided for a period not to exceed four hundred and eighty (480) hours per injury. Firefighting and emergency medical personnel who work an average of one hundred and twelve (112) hours in a two (2) week period are granted six hundred and seventy-two (672) hours of injury leave per injury. Any Fire employee working a forty (40) hour work week will be granted four hundred and eighty hours (480) of injury leave per injury. Paid on-the-job Injury leave will not be provided when the injured employee has received compensation for the injury from any other benefit plan funded by the City. Injury leave may terminate prior to the end of four hundred and eighty (480) / six hundred and 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.

If a holiday occurs during the time an employee is under approved injury leave, the hours will be charged to injury leave and will not be charged to General Leave. FMLA Leave will run simultaneously with on-the Job-Injury Leave.

In the event that an employee has exhausted the maximum hours of injury 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 General 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)

(Z) 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 non-work 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.

(AA) Limits of Absence from Authorized Assignments:

At any time during the absence, 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 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.

At any time during employment, the Human Resources Director or Designee or the division manager may require a physical or mental examination by a qualified Health Care Provider to re-certify that the employee is capable of performing the essential tasks of the position.

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

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.

(BB) Military Training Leave:

Any employee who is a member of the United States Armed Forces will be granted a Leave of Absence for Military Training on presentation of official orders. The amount of leave requested, the timeliness of the request, the options available to the employee and the special needs of the employee's division may be considered in approving such leave.

An employee using Military Training Leave shall be entitled to payment from the City only for a period not to exceed one hundred twenty (120) hours within any calendar year and to equalize the difference between pay received from the United States Government for the period and the amount the employee ordinarily would receive from the City. No General Leave is charged for this leave. Employees may choose to take paid Military Training Leave that decrements their General Leave bank in lieu of the normal Military Training Leave hours.

If the employee is granted Military Training Leave for a period of more than one hundred twenty (120) hours within any calendar year, the employee shall use either vacation leave or leave without pay for the balance of the absence.

(CC) Military Active Duty Leave:

Employees entering the active military service of the United States, employees drafted into such service, or employees subject to compulsory service who voluntarily enlist in time of war or other emergency shall be granted a leave of absence without pay in accordance with the Uniform Services Employment and Reemployment Act of 1994, Title 38 of the United States Code, 4301 et. seq.

The appointment of an employee to a vacancy created by the granting of military leave shall be designated as "Military Replacement" and the length of such appointment shall be limited to the length of military leave granted the incumbent.

(DD) Jury Duty:

All employees who receive fringe benefits 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 compliance with Article 71, Title 13 of the Colorado Revised Statutes. This statute provides for employers to pay regular wages not to exceed fifty (50) dollars per day for up to three (3) days of juror service during scheduled work hours. Any regular or daily compensation, except for mileage reimbursement received from the court by the employee, shall be reimbursed to the City. Proof of jury duty and hours served must be provided.

(EE) Witness Service:

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

(FF) 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 sixty (60) 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 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 Human Resources Director or Designee, departments experiencing significant shifts in operational needs may extend the opportunity to employees to accrue up to one hundred and 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 head determines that accumulation and use of compensatory time is not feasible or is not in the best interests of the City. If the department head 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.

(GG) Administrative Leave:

In recognition of Department Heads, Division Managers and exempt employees' regular extra work hours; employees will receive thirty (30) hours of Administrative Leave. Department heads, the Executive Administrator, and the City Clerk will receive ten (10)

additional hours of Administrative Leave per year in recognition of their work schedules. Administrative Leave is pro-rated according to the employees' start date during the first (1st) year of employment. Department heads 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 for other than department heads 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 heads' Administrative Leave must be approved in advance by the City Manager.

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

(HH) Leaves 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 head. In determining whether or not a leave without pay shall be granted, a department head 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. Leaves without pay will include these benefits: employer portion of the medical and dental coverage, group life, long-term disability and survivor income insurance, and continuation of municipal service. The employee does not accrue general leave during the leave without pay.

Benefits may cease should the employee not pay their portion of premium or additional life insurance payment.

(II) 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.

(JJ) Short-Term Disability Pay:

If an employee exhausts the Major Illness Leave available pursuant to these Rules due to non-work 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 General 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 non-work 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 General 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.

(KK) 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 supervisors' approval, take General Leave for this absence.

(LL) Facility Closure(s):

In the event of planned or unplanned City facility closure(s), employees not working because of a facility closure will be required to take General Leave (Facility Closure Leave) or leave without pay for the period of the closure they are scheduled to work.

(MM) General Leave Sharing Program:

The Municipal Code allows employees to voluntarily donate accrued but unused General 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 General 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 supplement 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 General 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 General Leave donated by each employee so that accurate adjustments can be made to the General Leave records of each employee, including the recipient of the General Leave;
4. The employee choosing to donate General Leave must retain a minimum General Leave balance of eighty (80) hours after the leave donation to the recipient is established;

5. General 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;
6. General Leave contributions shall start at a minimum of two (2) hours and continue in increments of at least whole hour increments; and,
7. The donor employee may receive no compensation from the recipient in return for donated leave.
8. If the event is FMLA qualifying, the leave allowed through general leave sharing will run concurrently with FMLA.
9. The amount of leave authorized through general leave sharing will not exceed 480 hours or 672 hours for firefighting and emergency medical personnel required to work an average of 112 hours in a two 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 "General Leave Sharing Program" form, 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 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.

(NN) Voting Time:

Employees who wish to vote in an official local, county or state 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.

(OO) Paid Leave (Change to Leave with Pay):

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

X. EMPLOYEE CONDUCT

- (A) Personal Conduct:
Employees should 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 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:

1. limiting the political activity of a spouse or any family member of an employee;
2. including an employee's unintentional or unwitting participation in City Council campaign materials or election activities or,
3. "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 Councilor 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 or 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 Councilor 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 Councilor or Mayor. This provision shall not prohibit coincidental

H. Workplace Harassment:

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 or 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 of its employees.

1. 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 forms of misconduct is not all-inclusive, but is intended merely to illustrate some of the activities which the City's harassment policy prohibits.

2. 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. 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 rejection 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.

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.

3. Complaint Procedure: An employee who believes that he/she has been subjected to harassment or observes harassment 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 that appropriate action may be taken.
 - a) Reporting: The employee should report the matter promptly and may choose any of the following persons for filing the complaint: the person's supervisor, supervisory chain of authority, or, the 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. The report shall be handled as a grievance by the Human Resources Director or Designee pursuant to Section XI.
 - b) Confidentiality: All complaints of harassment 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.

- c) Investigation: All reports of harassment will be promptly reported to the Human Resources Department and may result in an Equal Employment Opportunity (EEO) investigation.
- d) Recommendations and Conclusions: Following the investigation, the Human Resources Department will make findings and recommend appropriate action to the Department Head. Any investigation that results in a finding that person has maliciously or recklessly made false accusations against another may subject the accuser to appropriate disciplinary action up to an including termination.

Employees have the right to file charges concerning certain forms of harassment, including sexual and racial harassment, 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.

- e) 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 an including termination.

(I) Respectful Workplace:

The City also 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 and inclusivity 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 work place. 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.

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 as defined in the paragraphs above. 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.

(J) Reasons for Dismissal or Disciplinary Action:

Non-Exempt and exempt 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) Absence from duty without properly approved leave;
 - b) Sexual harassment of another employee;
 - c) Discrimination or harassment of another employee or the public based on race, color, sex, gender identity, sexual orientation, national origin, political, or religious affiliation, age, disability, marital status or military veteran status; or,
 - d) Disrespectful behavior towards a supervisor including but not limited to insubordination, disparaging comments, tone of voice, refusal or inability to follow directions.
4. Failure to demonstrate reasonable competence to the supervisor;
5. Inefficiency;
6. Insubordination;
7. Tardiness;
8. Acting so as to endanger the health and safety of others;
9. Negligence;
10. Dishonesty;
11. Submission of a misleading or incorrect application form or resume;
12. Damaging or wasting public property;
13. Theft;
14. Substandard job performance;
15. Offensive, defamatory and/or disrespectful conduct toward the public or other City employees;
16. Abuse of General Leave;
17. Providing false information or a misstatement of a material fact relating to the individual's employment with the City;

18. Improper or unauthorized use of City facilities, equipment, or vehicles;
19. Inability to perform the essential functions of the employee's position with or without reasonable accommodation;
20. Possession, sale, use or distribution of illegal controlled substances, including marijuana, while on duty or 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, or inability to complete assigned duties safely and competently during work hours due to use of chemical substances or consumption of alcoholic beverages;
21. Failure to fully cooperate in any investigation involving questionable employee conduct;
22. Knowingly making false accusations regarding the behavior of another employee;
23. Loss of required license or other prerequisite for employment when such prerequisite is required for carrying out the duties of the employee's position;
24. Engaging in conduct that on or off-duty is deemed by the City Manager or a department head to be clearly not in the best interest of the City;
25. Physical fighting or horseplay between employees;
26. Failure to supply required documents for employment within the United States and/or other employment requirements;
27. Inability or unwillingness to meet the City's expectations regarding supervision of employee or team;
28. A driving record that does not meet the City's safety standards;
29. Criminal misconduct, on or off-duty;
30. Habitual leave abuse or excessive absenteeism;
31. Lack of fitness for duty;
32. Violation of respectful workplace or workplace harassment policies including bullying, making rude, obscene or disparaging comments or actions that could offend or marginalize others;
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.

The exclusive remedy for an employee who believes that good reason for his 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 for this meeting, including employee representation, meeting recordation, or witness examination. 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 Department Heads, 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 head 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 head 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 judgment 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 head may demote any non-exempt or exempt employee under the department head's jurisdiction for the good of the municipal service or as a disciplinary measure when the department head deems it appropriate. The City Manager may authorize the demotion of a Department Head or Division Manager. Prior to initiating a demotion, the department head shall consult with the Human Resources Director or Designee and the City Attorney's Office. The department head 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 City Attorney's Office. A department head 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. Department Heads and Division Managers are subject to termination at the discretion of the City Manager.

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 Head or Division Manager shall be at the discretion of the City Manager. All Department Heads and Division Managers are at-will employees. A Department Head 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 the Human Resources Director in writing within three calendar days of being arrested or charged. All offenses involving drugs or alcohol shall be reported to the Human Resources Director in writing within three calendar days.

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 or 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 grievances 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. Generally, an employee may not grieve an evaluation of performance. When disputed, the Human Resources Director or Designee will determine whether the action/alleged action is grievable.

(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 or department manager 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 head (if not already reviewed by the department head). The department head 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 head, 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 head's response, the employee may ask the Human Resources Director or Designee in writing to investigate the grievance. If the department head 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, who shall decide on the grievance within ten (10) calendar days. The City Manager'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 head's response, the employee may file an appeal to the Personnel Board or, if the department head 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 head'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 time lines 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 employees and regular part-time benefited employees in authorized positions are eligible to appeal. Department Heads and Division Managers have no appeal rights beyond the grievance process to the City Manager.

(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 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 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, 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, 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 Regarding Grievances and Appeals:

1. When the Board has concluded that the discipline was justified, the City Manager 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 shall reconsider the suspension, demotion or discharge and either reinstate the employee, impose a lesser penalty, or confirm the original suspension, demotion, discharge; or,
3. When reconsidering a suspension, demotion or discharge, the City Manager shall be bound by the Board's findings of evidentiary fact. The City Manager 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) Administrative Procedure Jurisdictional:

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 head. 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:

The employee may appeal any action of the City Manager 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 the 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, the end of an indexed authorization, 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.

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 eligibility list for up to one-year. In addition, at the discretion of the City Manager, 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.

A department head may, with the approval of the Human Resources Director or Designee, appoint an employee who is to be laid off to an existing vacancy for which the employee is qualified.

- (C) Retirement:
Employees nearing retirement should contact the Human Resources Department and the Finance 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. 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.

- (D) Medical and Dental Insurance:
Upon separation, the employee's medical and dental insurance shall be terminated at the end of the month. 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 option.

- (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) Pension and Deferred Compensation:
Upon separation, the employee shall be eligible to withdraw both the employee's contribution to the pension fund and the City's contributions, if any, in accordance with provisions of the pension plan ordinance and pursuant to procedures adopted by the Pension 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 Pension funds and or Deferred Compensation.

- (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 "evaluation of City of Westminster employment" form 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 General 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 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 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 transmit by facsimile to the City's Risk Management Office within twenty-four (24) hours of the injury, if possible. The original workers compensation injury form and other reliable 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 to be a part of an employee's job responsibilities;
2. Prior approval by the respective department head 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 head 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 or 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 judgments 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 our 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 insure 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 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 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.

(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 \$1,000. 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 Head.

This policy is not intended to waive the City's immunity under the Colorado Governmental Immunity Act nor act as insurance covering employees' 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 Licenses:

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:

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

MVRs for current employees may also be requested and reviewed in the following situations:

- A. After an on-the-job collision determined to be preventable by the Department
- B. If a complaint is received regarding the employee's driving while on City business
- C. 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 Head, 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 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:

MVRs 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, Risk Manager, and Human Resources Director for approval by the Department Director.

Number of minor violations	Number of at-fault accidents = 0	Number of at-fault accidents = 1	Number of at-fault accidents >= 2
0	Acceptable	Acceptable	Reviewable
1	Acceptable	Acceptable	Reviewable
2	Acceptable	Acceptable	Reviewable
3	Acceptable	Reviewable	Reviewable
4	Reviewable	Reviewable	Reviewable
Any major violation in last five years	Reviewable	Reviewable	Reviewable

Definitions:

- Minor Violation: Any motor vehicle violation conviction other than a major violation conviction (except parking violations)
- Major Violation:
 - Driving under the influence of alcohol/drugs or driving while ability impaired
 - Leaving the scene of an accident
 - Failure to report an accident
 - Reckless driving
 - Speeding contest
 - Making a false accident report
 - Fleeing or eluding a police officer
 - Homicide, manslaughter or assault arising out of the use of a vehicle
 - Driving while license is suspended or revoked

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

XIV. SUBSTANCE USE

Per the Federal Drug Free Workplace Act of 1988, the City of Westminster is committed to being a Drug-Free Workplace for all employees. 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.

Pursuant to federal mandates and the need to promote public safety and a healthy, safe work environment for employees, the City of Westminster has maintained a substance-screening program since 1986. The Drug Free Workplace Act requires the City to offer assistance for the treatment of substance abuse by employees and to offer fair and equitable testing for drugs and alcohol in the workplace in order to promote the best interests of the City organization, the employees and the citizens that they serve. In 1994, federal regulations began to require drug and alcohol testing of employees who hold commercial driver's licenses (CDLs). The Fire Department initiated random substance screening of its employees who work in safety-sensitive positions in 1996, followed by the Police Department in 1998. In the interest of public and employee safety, the City then developed a comprehensive policy in 1999. 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. Night and weekend phone numbers for these employees are available from Police Dispatch (x4360). Supervisors should feel free to contact the SAT at any time of the day or night if a need arises to discuss immediate testing.

Human Resources Manager:	x 2156 x 2151
Human Resources Director:	x 2154
Human Resources Administrator II:	x 2147
Senior Human Resources Analyst:	x 2153
Senior Human Resources Analyst:	x 2061
Senior Human Resources Analyst:	x 2183
Senior Human Resources Analyst:	x 2146

(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 or is in possession of or is using a controlled substance on duty or 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 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. The treatment and counseling of persons with a substance abuse problem should be left to professionals. The person with a problem may be evaluated by a professional, such as a physician, psychologist or other person with knowledge of abuse and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

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. Ignoring the problem only serves to continue the abuse problem and does not allow the abusing employee to face the consequences of the employee's abuse and performance problems.

The consequences of alcohol and illegal drug abuse extend far beyond the individual user. Impaired employees put themselves, fellow workers and other users of our roads and highways in danger. Employees with drugs or alcohol in their systems are less productive and more likely to injure themselves or other persons in an accident.

Alcohol and drug-abusing employees' increase the costs related to lost productivity, absenteeism, accidents, loss of trained personnel, theft, and treatment and deterrence programs. Also, medical costs are higher and are passed on to the employer and other employees in the form of higher health insurance rates. Alcohol and drug abuse is costly to both the employer and the employee.

Workers' compensation benefits are reduced fifty percent (50%) when an employee's injury results from the employee's intoxication. Unemployment compensation benefits may be denied if an employee is terminated for poor job performance caused by off-duty drug or alcohol abuse, for on-duty use or distribution of drugs or alcohol, and for testing positive for drugs or for alcohol.

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

(F) 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-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 depends 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 Memorandum issued and updated periodically by the City Manager. 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 actions 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 (.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 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 judgment 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 in-eligible 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 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 required time limits (two (2) hours for random testing).

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 consult 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. In the absence of evidence of sale, possession or distribution of illegal substances, the City may not report an employee to law enforcement authorities.

8. Reporting Convictions:

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 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 DUI's and DWAI's.

(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 the 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 year. If a positive substance screen is confirmed, the applicant will be disqualified for consideration for employment for the period of one 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. Post -Accident, -Incident, -Injury, -Shooting 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.

3. Mandatory Substance Testing:

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:

1. An employee shoots a person;
2. An employee accidentally discharges a firearm;
3. An employee is involved in an incident in which a human fatality occurs;
4. An employee is involved in an incident or accident and the employee requests a drug and alcohol test; or,
5. 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 (5), 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 one 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:

1. 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?
2. 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 emotional 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.
3. 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, 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, 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 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. Contact information for testing after normal business hours is available through the Substance Assistance Team (SAT).

4. Reasonable Suspicion Substance Testing:

An employee shall be tested for alcohol and drugs at any time while on duty 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. 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 head 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.

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.

5. 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 that are 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 hours after notification, unless excused by the Human Resources Director or Designee, the employee's department head or the division manager or a 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 (.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.

6. Follow-up Testing Pursuant To Continued Employment Agreement:

When an employee tests positive for either alcohol or drugs, 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 head 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. 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.

7. 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 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 head, 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 worker's compensation, unemployment compensation or other proceeding initiated by or on behalf of the employee.

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 Head may impose disciplinary measures up to and including termination. Past work performance and violations of City of 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 (1st) Offense (either first (1st) positive drug or alcohol screen or first (1st) 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 (1st) 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 (2nd) Offense (either second (2nd) positive drug or alcohol screen or second (2nd) discipline related to a substance use- or abuse-related event):

All Employees: Dismissal

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.

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 business attire as determined by the City Manager, 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 or on officially designated casual dress days. 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, including denim pants.

3. Appearance of Employees:

All City Employees' appearance shall be one that reflects a positive, professional image for the organization. Jewelry in body piercing, visible tattoos, unusual hair color and length may be unacceptable. 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.

5. Disputes Regarding Attire and Appearance:

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 head 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, 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) 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, letters 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.

(G) 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.

(H) 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.

(I) 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 the designee of the City Manager, 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 the designee of the City Manager.

(J) 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.

(K) 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.

(L) 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 Heads 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.

- (M) 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.
- (N) 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 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.
- (O) Affordable Care Act – Reporting Periods:
A requirement of the Affordable Care Act is that employers define a reporting period for measurement purposes, the City has selected the reporting period of October 1 – September 30 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.

City of Westminster Personnel Policies and Rules

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