

AMS
12/27/19

ORDINANCE NO. 2019-04

AN ORDINANCE AMENDING ARTICLE 1-6, SECTION 1-604(c) OF THE ORDINANCES OF THE CITY OF ROCK SPRINGS ENTITLED "ADOPTING THE PERSONNEL POLICIES AND PROCEDURES RELATING TO CITY OF ROCK SPRINGS EMPLOYEES" AND ADOPTING REVISED PERSONNEL POLICIES.

WHEREAS, the Governing Body of the City of Rock Springs desires to amend Article 1-6, Section 1-604(c) of the Ordinances of the City of Rock Springs entitled "Adopting the Personnel Policies and Procedures Relating to City of Rock Springs Employees" to reflect changes in the City's administrative structure; and,

WHEREAS, the Governing Body of the City of Rock Springs has said amended Personnel Policies and Procedures before it, and has given them careful review and consideration.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ROCK SPRINGS, STATE OF WYOMING:

Section 1. That Article 1-6, Section 1-604(c), entitled "Adopting the Personnel Policies and Procedures Relating to City of Rock Springs Employees" of the Ordinances of the City of Rock Springs, Wyoming, is hereby amended to read as follows:

1-604(c) ADOPTING THE PERSONNEL POLICIES AND PROCEDURES RELATING TO CITY OF ROCK SPRINGS EMPLOYEES.

~~1. The existing Personnel Policies and Procedures of the City of Rock Springs initially adopted by reference in Ordinance Number 80-15 on May 6, 1980, amended and reenacted by Ordinance Number 84-1 on March 6, 1984, and all subsequent re-enactments and amendments thereto are hereby repealed and they shall have no further force or effect when the last position of employment governed by said policies is filled by hiring or promotion following adoption of the revised policies.~~

~~2. Amendments to~~ that certain document ~~dated February, 2018,~~ entitled "Personnel Policies and Procedures of the City of Rock Springs, Revised Approved June 5, 2018" in the form attached hereto and by this reference specifically made a part hereof ~~is are~~ hereby approved and adopted ~~as the new Personnel Policies and Procedures for the City of Rock Springs, Wyoming.~~

~~3.~~ 2. The amended Personnel Policies and Procedures of the City of Rock Springs, Revised, as adopted by Section 21 above, shall themselves be subject to such further revision and Amendment as the Governing Body may from time to time adopt and approve by ordinance.

PASSED AND APPROVED this _____ of _____, 2019.

President of the Council

Mayor

Attest:

City Clerk

1st Reading _____

2nd Reading _____

3rd Reading _____

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~~NOTHING IN THESE PERSONNEL POLICIES IS INTENDED TO CREATE A CONTRACT OF ANY TYPE BETWEEN THE CITY AND ITS EMPLOYEES. THE CITY COUNCIL RETAINS THE ABSOLUTE DISCRETION TO SUSPEND, MODIFY OR SUPERSEDE THESE PERSONNEL POLICIES THROUGH THE COUNCIL'S ORDINARY COURSE OF BUSINESS.~~

ARTICLE I - ADMINISTRATION

Section 101. Purpose and Scope.

a) The City of Rock Springs hereby establishes these personnel policies and procedures to be used as guidelines for the fair and consistent handling of personnel matters.

b) These personnel policies and procedures shall apply to all employees unless otherwise noted. Any conflict between these rules and applicable civil service rules or civil service statutes shall be resolved in favor against these rules and in favor of applicable civil service rules or laws. Conflicts or inconsistencies between these rules and negotiated contracts with recognized collective bargaining units representing City employees shall be resolved in favor of the negotiated contracts, except where otherwise required by law. (Ord. No. 2002-09, 6-18-02).

c) These personnel policies and procedures supplant and replace all existing City personnel policies and may themselves be amended, modified or repealed by the governing body of the City of Rock Springs.

Section 102. Department Heads and Department Rules.

a) The governing body of the City of Rock Springs exercises ultimate control over personnel matters through the budgetary process and adoption of personnel policies through ordinances.

b) Department Head. The individual Department Heads within the City shall bear the principal burden of administering these policies and procedures within their respective departments, except where stated otherwise; and, they shall be primarily responsible for the selection, administration and discipline of personnel within their departments.

Department Heads may establish such rules and policies, not inconsistent herewith, as they deem necessary for the efficient and orderly administration of their departments. In the event of a conflict or inconsistency, or ambiguity, the personnel policies and procedures outlined herein shall take strict precedence; and, to the extent of such conflict or inconsistency or ambiguity, the departmental rules shall be void. Such departmental rules are subject to the review and approval of the Mayor ~~and the Director of Human Resources~~ to insure consistency with these policies and

procedures prior to their becoming effective within the department.

In the event of the absence or incapacity of a Department Head, or if a vacancy in such a position occurs, then the Mayor shall designate, orally or in writing, a person from within the department to carry out the duties and responsibilities of the Department Head. Failing such designation by the Mayor, division supervisors shall have the authority to carry out the duties and responsibilities of the Department Head under these personnel policies and procedures within their respective divisions.

ARTICLE II - TYPES OF EMPLOYMENT

There are five types of employment with the City of Rock Springs. The ~~Director of Human Resources~~ Mayor, along with the Department Head, will assign each employee to a type of employment. All employees are considered non-exempt unless they meet the Fair Labor Standards Act requirements of an exempt employee.

Section 201. Official Employee.

An official employee is an elected individual serving as the Mayor or as a member of the City Council. Such employees are eligible for wages and benefits as determined by the Governing Body. These individuals are employees subject to the terms and conditions of appropriate State Statutes, ordinances and resolutions and are covered under City liability policies. Official employees are not subject to nor governed by these personnel policies except as otherwise provided herein.

Official employees are exempt from the overtime pay under the Fair Labor Standards Act.

Section 202. Appointed Employee.

An appointed employee is a full-time or part-time employee appointed by the Mayor with the consent of the City Council. Their employment is subject to conditions and terms of appropriate State Statutes, ordinances and resolutions. Appointed employees include: City Clerk, City Treasurer, Police Chief, Fire Chief, Director of Engineering and Operations, Director of Administrative Services, City Attorney, Assistant City Attorney, Director of Parks and Recreation, ~~Director of Human Resources~~, Director of Public Services and Municipal Court Judge.

Appointed employees are eligible for benefits if they meet the specific eligibility requirements as outlined for each benefit. Appointed employees are exempt from the overtime pay under the Fair Labor Standards Act.

Section 203. Full-time Employee.

A full-time employee is an employee who typically works 40 hours per week. Full-time employees are eligible for benefits if they meet the specific eligibility requirements as outlined for each benefit.

Full-time employees may be exempt from overtime pay under the Fair Labor Standards Act. Any questions about which positions are exempt or non-exempt should be directed to the ~~Director of Human Resources~~ City Clerk's office.

Section 204. Part-time Employee.

A part-time employee is an employee who works on a regularly scheduled basis that averages 28 hours a week or less. Part-time employees are not eligible for benefits unless specifically stated, and are not exempt from overtime pay under the Fair Labor Standards Act.

Section 205. Temporary Employee.

A temporary employee is an employee who works for a specified limited period or on a specific project. Temporary employees are not eligible for benefits. Temporary employees may or may not be exempt from overtime pay under the Fair Labor Standards Act, depending on job duties and whether they are paid on a salary or hourly basis. ~~Any questions about which positions are exempt or non-exempt should be directed to the Director of Human Resources.~~

ARTICLE III - EMPLOYMENT PROCEDURES

Section 301. Equal Employment Opportunity.

It is the intent and policy of the City of Rock Springs to provide equal employment opportunities to all applicants and employees in the administration of all employment practices, including, but not limited to, recruitment, hiring, promotions, discipline, training, benefits and other terms and conditions of employment. All employment decisions shall be based on merit, job-related qualification and competence without regard to any individual's sex, race, color, religion, national origin, age, disability, genetic information, military service status or any other characteristic protected by federal, state or local law.

Any applicant or employee who believes they have been subject to discrimination on the basis of one of the characteristics described above should immediately report the circumstances in writing to their supervisor, the Department Head or the ~~Director of Human~~

~~Resources~~Mayor. All reports will be investigated promptly and as confidentially as possible consistent with the need to conduct a thorough investigation. Appropriate corrective action will be taken for violations of this policy.

The City prohibits retaliation against an employee for making a good faith report of suspected violation of policy or for participating in the investigation of such a report. Please see Section 303 for the Policy Prohibiting Retaliation.

Section 302. People with Disabilities and Requests for Accommodation.

The City will make employment decisions without discrimination based on disability. Such decisions may not limit, segregate, or classify applicants or employees on the basis of disability in a way that would adversely affect their opportunities or status. The City will make equal employment opportunities available to persons physically and mentally qualified to perform the essential functions of a job.

While many individuals with disabilities can work without accommodation, some employees may need accommodations to enable them to perform the essential functions of their positions. It is the policy of the City to reasonably accommodate qualified individuals with disabilities, to the extent required by the Americans with Disabilities Act and state law, provided such accommodations are directly related to performing the essential functions of a job, another vacant position the employee desires, or when necessary to enable the employee to enjoy equal employment opportunity. The City's obligation to provide an accommodation may be limited if the accommodation will impose an undue hardship, or if the accommodation will result in a direct threat to the health and safety of the employee or others.

Employees who wish to request an accommodation of a physical or mental impairment or disability should contact the City Clerk's office~~Director of Human Resources~~. Also, when supervisors receive any request from an employee for alteration of work assignments or methods, schedules, breaks, or any other change in working conditions related to an employee health issue or physical limitation, the supervisor should immediately refer the employee to the City Clerk's office~~Director of Human Resources~~ and notify the Director-Clerk of the employee's request.

The City may, ~~through Human Resources~~, request documentation of the employee's limitations or restrictions to support the request, including documentation from the employee's health care providers. It is the employee's responsibility to authorize the employee's health care providers to respond to the City's request for this information, and to cooperate in the process of obtaining that

information. All information acquired through the accommodation process will be stored in the employee's medical file, apart from the employee's personnel file.

Once the ~~Director of Human Resources~~City has received the documentation of the employee's limitations or restrictions, the City and the employee will discuss the job-related limitations and the possible reasonable accommodations that might allow the employee to perform the essential functions of the job. The employee is encouraged to suggest possible accommodations as early in this process as possible. While an employee's preference will be given consideration, the City is free to choose among equally effective reasonable accommodations and may choose one that is less expensive or easier to provide.

If a reasonable accommodation is identified, the ~~Director of Human Resources~~Mayor, or a designee appointed by the Mayor, will summarize the accommodation process and its conclusion in writing, with a copy to the employee. This documentation will be included in the employee's medical file. The employee's Department Head and supervisor will be notified of the accommodation, but will not be notified of the underlying medical condition.

Section 303. Policy Prohibiting Retaliation.

The City prohibits unlawful retaliation against any employee because of the employee's participation in protected activity. All forms of unlawful retaliation are prohibited, including any form of discipline, reprisal, intimidation or other form of retaliation for participating in any activity protected by law. Any employee, regardless of position or title, who violates this policy, will be subject to discipline, up to and including termination of employment.

Examples of protected activities include:

- Lodging a good faith internal complaint (written or oral) with a City elected official, ~~the Director of Human Resources~~,—a Department Head, or a supervisor, specifically opposing unlawful discrimination or harassment or complaining about violations of wage and hour law (for example, if an employee believes he has been sexually harassed or not paid overtime he is owed).
- Filing a good faith complaint of unlawful discrimination or harassment with the Wyoming Department of Workforce

Services or US Equal Employment Opportunity Commission (EEOC) or in court.

- Participating in an internal investigation into allegations of sexual harassment.
- Supporting another employee's internal or administrative complaint of unlawful discrimination (by, for example, testifying or providing an affidavit in support of a co-worker who has filed a discrimination complaint with the EEOC).
- Requesting an accommodation under the Americans with Disabilities Act
- Requesting or taking leave under the Family and Medical Leave Act
- Filing a worker's compensation claim

The examples above are illustrative only, and not exhaustive. No form of retaliation for any protected activity will be tolerated.

Section 304. Complaint Procedure for Retaliation.

If you are subjected to any conduct that you believe violates this policy, you must promptly speak to, write or otherwise contact your direct supervisor, or Department Head ~~or the Director of Human Resources~~, ideally within five days of the offending conduct. If you have not received an update about the actions taken in response to your report within seven (7) days after reporting, please immediately contact the Mayor. These individuals will ensure that an investigation is conducted in a timely fashion.

Your complaint should be as detailed as possible, including the names of all individuals involved and any witnesses. A written complaint is not required, but would be very helpful in the investigation process. The City will directly and thoroughly investigate the facts and circumstances of all perceived retaliation and will take prompt corrective action, if appropriate.

Additionally, any manager or supervisor who observes retaliatory conduct must report the conduct to the ~~Director of~~

~~Human Resources~~Mayor so that an investigation can be made and corrective action taken, if appropriate.

Section 305. Selection of Employees.

a) The selection of employees for any position not within the bargaining unit covered by any collective bargaining agreement in effect at the time the vacancy is filled shall be based primarily on qualifications, experience and job performance. Seniority will be considered only when other factors are equal in the opinion of the decision-maker.

b) Seniority shall be defined as the length of full-time service of an employee calculated from the date of hire. Full-time employees, including employees of the Fire and Police Departments, shall be placed upon the seniority lists to be maintained and updated at all times by the City. In the event an employee retires or terminates employment with the City, such employee shall lose all seniority.

c) Any employee who is eligible to retire under one of the State's retirement systems and who wishes to apply for another job within the city that is covered under a different retirement plan shall only be given equal consideration.

d) Employees shall be notified of any open positions in the following manner:

1. Full-time vacancies shall be posted internally by the City for a period of five (5) working days via City email and on all department bulletin boards. The announcement shall include the job title, job description, and rate of pay.

a. If no applications are received from a current City employee within 5 days, the ~~Director of Human Resources~~Mayor in conjunction with the Department Head will determine the recruiting strategy used to fill the vacant position.

2. Full-time vacancies for any position not within the bargaining unit shall be posted both inside and outside the organization as determined by the recruiting strategy developed by the ~~Director of Human Resources~~Mayor in conjunction with the Department Head.

3. Any full-time employee of the City who wishes to be considered for the open position must complete an application for the job within the five (5) working day period and will be subject to the same hiring process as an outside candidate.

4. In addition, any eligible, former employee whose name appears on the layoff panel list shall be notified of the opening by the City and given the opportunity to make application for the job for a period of five (5) working days following such notice.

e) All applications must be submitted to the ~~Human Resources Department~~ City Clerk's office ~~City Clerk~~ and must be on the approved application form. The City accepts applications for specific job openings. Applications will be processed as outlined below. Applications are kept on file for (3) three years.

1. The ~~Human Resources Department~~ Mayor, and/or a designee appointed by the Mayor, ~~has~~ shall have the responsibility to review applications, conduct initial interviews, administer tests when applicable, or perform other necessary review functions.
2. A selected number of qualified applicants are interviewed. These interviews may include other individuals deemed appropriate.
3. Two (2) references will be obtained on all potential employees as deemed appropriate. The ~~Human Resources Department~~ City will obtain this reference information either in writing or by telephone. The person obtaining the reference information documents this information, which is included in the employee's file.
4. If the position requires licensure or certification, the ~~Human Resources Department~~ Mayor, or a designee appointed by the Mayor, ~~shall~~ verify such licensure/certification of the applicant with the appropriate licensing agency of the State of Wyoming.
5. Offers of employment are contingent upon the completion of pre-employment screening that includes, but is not limited to alcohol and drug tests for safety sensitive positions, completion of a background check, as outlined in the background checks and documentation of the applicant's identity and authorization to work in the United States as required by the Immigration Reform and Control Act.
6. Unsuccessful candidates will be notified of the decision.
7. Each new employee completes the required processing by the ~~Human Resources Department~~ City before beginning work.

f) The Police Department and the Fire Department are covered under civil service statutes with the State of Wyoming. All hiring procedures will be administered as set forth in the respective civil service commission rules.

g) The Department Head shall be primarily responsible for the selection of an appropriate candidate to fill any vacancy

within the department. The Department Head may use any appropriate and reasonable means deemed necessary in the selection. All appointments, promotions, transfers and new hires shall be subject to the review and approval of the Mayor.

h) Elected officials of the City of Rock Springs are not eligible to apply or to be hired for any position within the City until they have left office for a minimum of thirty (30) days.

Section 306. Testing.

In order to fill a position, the Department Head may utilize appropriate testing methods based upon the skills and knowledge required to perform the job. Such testing methods may include, but are not limited to, written exams, performance tests, physical agility tests, reviews of experience and training, and oral interviews.

The tests shall be considered as selection tools only and may be used or required to be performed more than once. The Department Head ~~or the Director of Human Resources~~ may give applicants feedback on their relative strengths and weaknesses as compared to other applicants, if requested.

The Department Head may limit testing only to those considered in his/her judgment to be best qualified or suited for the vacancy.

Section 307. Residency Requirements.

Department Heads, upon determining that the City's best interests would be served by doing so, may require employees to live within the City Limits. All Department Heads, firemen and policemen shall reside within ten (10) miles of City Hall. Department Heads, upon determining that the City's best interests would be served by doing so, may require employees to live within the ten (10) miles limit as well. The Mayor shall have authority to grant special permission to live outside the stated limit for good cause.

Section 308. Nepotism.

In recognition of the inherent impact on employee discipline and morale and the potential for favoritism, the following policy shall apply concerning the employment of related persons within City departments, agencies, and/or activities for whom wages are paid using City funds.

A member of an employee's immediate family may be considered for employment by a City department if the applicant possesses all the qualifications for employment. An immediate family member may not be hired, however, if the employment would:

- a. Create either a direct supervisor/subordinate relationship with a family member; or
- b. Create a direct supervisor or chain of command relationship with a family member.

The above criteria will also be considered when assigning, transferring, or promoting an employee. For the purpose of this policy, "immediate family" includes: employee's spouse or domestic partner (whether divorced, separated or living together), brother, sister, parents, children, stepchildren, grandchildren, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, and any other member of the employee's household.

When a situation arises which contradicts this policy (whether because of the developing relationship or marriage of two employees) both employees are required to report the situation to their ~~Director of Human Resources~~ Department Head and to the Mayor. One of the employees involved will be required to apply for transfer to another eligible position within the City, resign or otherwise be discharged. Employees will be permitted to determine which of them will resign and will be required to inform the ~~Director of Human Resources~~ Mayor of their decision within 30 days after the situation which contradicts the policy begins. If the employees cannot make a decision, the City will decide in its sole discretion, which employee will remain employed. Further, there is no guarantee of future employment if found in violation of this policy (i.e., may not be able to transfer to another department).

As of June 5, 2018, existing employees in existing relationships that contradict this policy will have 12 months to become compliant.

Section 309. Termination of Employment

Termination of employment occurs when an employee resigns, retires, is discharged, is the subject of a reduction in force, dies, or his/her contract expires.

- a. Resignation / Retirement. Employees may resign or retire at any time. All written resignations must be submitted to the Department Head or the ~~Human Resources Department~~ Mayor. Employees who resign are expected to give written notice of their intent to resign. Adequate notice is defined as follows:
 1. All employees are expected to give at least two (2) weeks' notice.
 2. Employees who do not provide adequate notice of their intent to resign are determined to be "ineligible for rehire,"
 3. Completing of Wyoming Retirement paperwork does not constitute notice of intent to resign or retire.

- b. Involuntary Termination. The City may terminate the employment of an employee at any time for just cause. For fire and police employees, Civil Service Rules will be followed. The termination process shall be as follows:
1. When action is being considered by a Department Head to terminate employment of an individual, the Department Head must first review and receive approval from the ~~Director of Human Resources~~, Mayor and Legal Counsel.
 2. Once the decision has been made to terminate employment, the Department Head, ~~Director of Human Resources~~ Mayor, or ~~another appropriate individual a designee appointed by the Mayor, meets shall meet~~ with the employee to discuss the termination. The employee is given a written letter regarding the termination action. The employee is given information regarding his/her grievance rights if union employee, benefits, continuation rights, if appropriate, and any other necessary information.
 3. As part of the termination process, a determination is made as to whether the employee is "ineligible for re-hire." The supervisor is to note the reason for dismissal and ineligibility for re-hire clearly on the personnel action form.
- c. ~~Human Resources Department~~ Mayor's Role. The ~~Human Resources Department~~ Mayor, or a designee appointed by the Mayor, attempts to contact each employee whose employment has ended to:
1. Explain the employee's rights to continue benefits, when applicable;
 2. Obtain the forwarding address of the employee, or other demographic information; and
 3. Provide any other appropriate information.
 4. As appropriate, the ~~Human Resources Department~~ Mayor, or a designee appointed by the Mayor, will attempt to contact each employee to conduct an exit interview to obtain the employee's suggestions regarding the working environment at the City.
- d. Department Head Role. The Department Head will contact the ~~Human Resources Department~~ Mayor when a resignation has been received or prior to the determination of termination. For each employee whose employment has ended, the employee's supervisor attempts to meet with the employee to arrange to collect name badge, keys, credit cards, equipment, city cell phone, or any other City property on the last day of employment.
- e. Date of Termination. The date of termination shall usually be deemed as the last day the employee actually worked.
- f. Benefits. All benefits shall end as of the date of termination with the exception of health, dental, and life insurance

coverage that ends at the end of the month during which the termination occurs.

g. Final Paycheck. For all terminations, the final paycheck will be available with the next regular payroll check. The final paycheck includes all wages earned by the employee through the last day worked and all accrued, but unpaid, benefits if applicable. Deductions from the final paycheck will be made for any educational costs and contact obligation not completed as per signed agreement with the City and the Employee.

Section 310. Reduction of Force.

In all cases where the working force is to be reduced, employees with the greatest seniority shall be retained provided that the Mayor and Department Head agree they have the ability to perform available work and when all other things are equal.

Section 311. Layoff Procedure.

In all cases where the working force is to be reduced, City representatives shall meet with the employees and any union representatives at least 24 hours in advance and review the available jobs and the individuals to be laid off or retained.

Within five (5) days after an employee is notified that he or she is to be laid off, he or she must fill out a City of Rock Springs Panel Form and submit it to the City. On this form the Employee shall list; (1) his or her years of service with the City; (2) the jobs he or she is able to perform and for which he or she wishes to be recalled.

Section 312. Panels.

Employees who are idle because of a layoff or reduction in work force and wish to be recalled shall be placed on a panel, from which the employees may be returned to employment as outlined in Section 305. A panel member shall be considered pursuant to the provisions of these policies, for every job which the employee has listed on their layoff form as one to which the employee wishes to be recalled. An Employee shall be permitted to update and upgrade the layoff form at any time.

The City shall be custodian of the panel records. All panel records shall be made available to any union representing any bargaining unit of employees. The laid-off bargaining unit employee shall keep the City and the Local Union informed of any change of address and/or telephone number where the employee may be regularly reached. Notice, required by Section 305, to the last known address of the laid-off Employee by certified mail shall be sufficient notice of recall. Copies of the Notice shall be

made available to any union representing any bargaining unit of employees. The employee so notified may either accept or reject the job which is available; but if the employee rejects a job which the employee has listed as one to which the employee wishes to be recalled or fails to respond within five (5) working days after receipt of such notice, the employees name shall be removed from the panel.

Employees who are on a panel shall retain the seniority earned prior to their layoff, and will continue to accrue seniority while on the panel. Any seniority which is accrued by an employee during a period of lay-off shall be used exclusively to determine eligibility for rehire and shall not be considered for purposes of determining the employee's eligibility for retirement benefits, insurance benefits or any other benefit available through the City. (Ord. No. 96-08, 7-16-96).

ARTICLE IV - PERSONNEL RECORDS

Section 401. Location and Maintenance.

a) Personnel records shall be kept for all employees. All official personnel records shall be kept in one centralized location in a locked and secure place by the City Clerk's office~~Director of Human Resources~~. A separate occupational medical file shall be maintained for each employee which shall contain all documentation regarding employee illness, injury, medical leaves, requests for accommodation, and other documents relating to employee health. The medical file shall also be stored in a secure, centralized location maintained by the City Clerk's office~~Director of Human Resources~~, separate from the personnel files.

b) All information in the personnel file and medical file shall be available for the visual inspection and review by the employee. Personnel files shall not be open to public inspection except as required by the Wyoming Public Records Act, Wyo. Stat. § 16-4-203(d)(iii) and may only be reviewed by persons other than the employee or supervising personnel with the express written consent of the employee, or as otherwise required by law. Medical files shall not be open to public inspection, and may be released only with the written consent of the employee or as otherwise required by law.

All employees shall have the right to submit a statement concerning any material in the employee's file and may request that other pertinent information be included in his/her file. Such statement shall become part of the employee's personnel file. The personnel file shall not contain adverse records unrelated to employment. No adverse material shall be placed in the personnel file without notification to the employee or without an opportunity for the employee to read and sign the material to be filed. In

the event the employee fails or refuses to sign the material, such failure or refusal shall be noted by the Department Head or Supervisor on the material to be filed. The employee shall have the right to respond in writing to any material so filed and the employee's response shall become part of the employee's personnel file. (Ord. No. 96-08, 7-16-96).

ARTICLE V - CLASSIFICATION

Section 501. Purpose.

a) All City positions may be classified under a plan to be composed of a list of positions supported by written specifications setting forth the duties and responsibilities of each position and the qualifications necessary. These specifications will be reviewed and updated at intervals not to exceed five (5) years. More frequent reviews should be conducted if feasible.

The purpose of the Classification Plan, if any, shall be to:

1. Provide equal pay for work of equal value.
2. Establish minimum qualification standards for recruiting and testing purposes. (This includes minimum requirements of skills, knowledge, abilities, and other qualifications necessary for entry into the class).
3. Provide appointing authorities with a means of analyzing work distribution, areas of responsibility, lines of authority, and other important relationships between positions.
4. Provide a basis for establishing standards of work performance.
5. Establish lines of promotion.
6. Indicate training needs.
7. Provide uniform titles for positions.

Section 502. Position Specifications.

Each position shall state the characteristic duties, responsibilities and qualification requirements which distinguish a given position from other positions. Each specification shall be descriptive but not restrictive; that is, the position shall describe the more typical and essential responsibilities which may be allocated to a given position, but shall not be construed to restrict the assignment of other duties related to the position.

Section 503. Administration of the Classification Plan.

a) A Classification Plan, if any such is established, shall be maintained by the ~~Director of Human Resources~~ Mayor.

b) When a new position is created, the Department Head shall send the ~~Director of Human Resources~~ Mayor a request for classification of the position with a description of the applicable duties and responsibilities to be assigned to the position. The ~~Director of Human Resources~~ Mayor, ~~after consultation with the Director of Administrative Services,~~ shall then allocate the position to the proper pay grade after analysis and evaluation of the duties and responsibilities and a new job description will be approved by the governing body.

c) The Department Head may initiate a request for a change in classification when the assignment of an employee has changed substantially as to kind and/or level of work. Such request shall include a list of additional duties and/or responsibilities. If the ~~Director of Human Resources~~ Mayor determines that the position has changed sufficiently, ~~recommendation will be made for reclassification to the Mayor~~ may approve the request.

- If the request is approved, it will be submitted to the Governing Body for final budget approval.
- If the request is denied, no similar request may be submitted within six (6) months.

d) The salary ranges to which positions are assigned are determined on duties performed and responsibilities exercised or other principles of classification.

ARTICLE VI - PAY PLAN AND PAY ADMINISTRATION

Section 601. Salary Plan.

a) The ~~Director of Human Resources~~ Mayor, in conjunction with the Governing Body, shall be responsible for the development and maintenance of a uniform and equitable pay plan which shall consist, for each position, of minimum and maximum rates of pay.

~~b) Annually, the governing body shall review and change where necessary, the compensation plan and fringe benefit package for all City positions, after considering the recommendations of the Director of Human Resources. These pay rates will be equated to the general market pay rates in the area and shall provide like pay for like work.~~

~~b~~e) Salary ranges shall be linked directly to the position classification plan and shall be determined with due regard to the following considerations:

1. The financial policy and economic conditions of the City.
2. Market pay rates for similar employment in both public and private organizations;
3. Cost of living factors;
4. Other benefits received by employees;

dc) In no case will a current employee's base pay be reduced upon adoption of a new pay plan. (Ord. No. 2000-20, 10-30-00)

Section 602. Original Rate of Pay.

Upon hire, the minimum rate of pay within the established salary range for the position shall normally be paid to any person. If applicant has demonstrated additional qualifications during the introductory period (or probationary period for employees covered by a labor agreement that requires a probationary period), the Department Head may recommend a one-time adjustment of not more than five percent (5%), subject to approval by the Mayor.

In the event a Department Head has made reasonable efforts, pursuant to these provisions, to find qualified applicants to fill a position and has determined that qualified applicants are not interested in making application for the position, the Mayor may approve a request to increase the original rate of pay up to ten percent (10%) over the minimum rate within the salary range.

Section 603. Reclassification Rate, Appointment Into Higher Salary Range and Demotions.

a) Upon reclassification of an existing position to a new salary range, an employee shall enter the new salary range at a level which is not less than that which has been attained in the prior salary range.

b) Upon appointment of a full time employee into a position in a higher salary range, the employee shall enter the new salary range at a level not less than five percent (5%) greater than his or her current salary, not to exceed the maximum salary in the new range. In the event an employee voluntarily chooses to apply for and accept a position in the same salary range, the employee's rate of pay will not change. In the event an employee is demoted (involuntary reduction in salary, rank or status) by the City into a position in a lower salary range, the employee shall enter the new range at a level to be set by the Department Head with the approval of the Mayor. If an employee voluntarily chooses to apply for and accept a position in a lower salary range, the employee will enter the new range at the lowest level.

Section 604. Pay Advancement

- a) After successfully completing the introductory period (or

probation for employees covered by a labor agreement that requires a probation period), an employee may receive an annual pay increase. The Governing Body will determine on an annual basis if employees will be eligible for a cost of living adjustment and/or a grade increase.

b) Annual pay increases shall be allowed only to the maximum of the salary range.

c) The following factors shall not affect an employee's eligibility date for a pay increase:

1. Pay adjustments resulting from annual salary and wage survey;
2. Transfer to another position within the same pay range;
3. Military leave for any reason recognized by the Wyoming Military Relief Service Act, (Wyo. Stat. §§ 19-11-101 through 124) or the Uniformed Services Employment and Reemployment Act (38 U.S.C. §§ 4301 through 4335);
4. Leave-without-pay for fewer than thirty (30) days;
5. A period of paid leave.

Section 605. Special Assignment and Additional Duty Pay.

a) An employee required to assume duties normally performed by an employee in a higher classification for any period in excess of thirty (30) consecutive working days shall be paid at the level in the higher classification which results in at least a 5% increase in pay. An employee required to assume duties normally performed by an employee in the same classification for any period in excess of thirty (30) working days, while still being required to perform the duties of their current position, shall receive an increase in pay, as determined by the Mayor, as compensation for the additional duty.

b) When an employee works on another job or assignment for a period of less than thirty (30) consecutive calendar days, such job or assignment shall be considered training for the employee and shall be so noted by the supervisor. Records of such training shall be entered in the employee personnel file.

Section 606. Schedules; Hours of Work; Overtime Hours.

a) Work schedules, including breaks and meal periods, are specific to each department and therefore the responsibility of the Department Head and supervisors. Employees should not begin work or clock in prior to their scheduled start time, and should

end work and clock out at the scheduled end of the work day.

A break is defined as a brief relief from work duties. Breaks are paid time, and the employee must remain on the premises during the break. When time allows, the City strives to provide each employee with one paid fifteen (15) minute break for every four (4) hours of work.

One unpaid meal period of thirty (30) minutes to one (1) hour in length is provided for each work shift that exceeds five (5) hours. A meal period is defined as time to eat, etc. away from work duties. The meal period should be scheduled by the supervisor at a reasonable time during the course of the employee's shift. Employees should clock out and clock in for meal periods, and confirm that their timesheets accurately reflect their meal periods. If an employee is not fully relieved of all duties for at least thirty (30) minutes, the entire meal period is paid time. In such a circumstance, the employee should notify the supervisor, and the supervisor shall make the necessary modification of the employee's time records to ensure the employee is paid for the meal period.

If an emergency arises and an employee cannot take his/her meal period, he/she should notify his/her supervisor. The supervisor strives to make arrangements to provide the employee with a meal period as soon as possible.

b) Work week and Overtime. A work week shall be defined as 12:00 a.m. Monday to 11:59 p.m. Sunday for the purpose of computing overtime. When the City requires any non-exempt employee to work more than forty (40) hours in any work week, the City shall, at a minimum, pay the employee one and one-half (1 & 1/2) times their regular hourly rate for each hour worked over forty hours in the work week. When possible, overtime requires pre-approval of a Department Head or supervisor.

c) For the purposes of calculating overtime pay, all vacation, holiday and compensatory time shall be included in the calculation as if worked. Sick leave shall not be considered as hours worked or included in the overtime calculation.

d) All exempt employees other than Department Heads shall be entitled to receive exempt employee comp time under the following conditions:

1. An exempt employee may, with the permission of the Department Head, accrue comp time on a one hour for one hour basis for every hour worked in excess of the employee's normal maximum number of hours worked per week. The Department Head may direct and/or assign a shift adjustment for the employee to avoid accumulation of exempt employee comp time.

2. All hours accrued under this provision shall be accrued and calculated during the calendar year from January 1 through December 31. It is intended that accrued exempt employee comp time shall be used in the calendar year following its accumulation

3. The employee, with the prior permission of the Department Head, may use accumulated exempt employee comp time as time off from work, however, the employee shall not be permitted to "cash out" any accumulated exempt employee comp time for actual pay.

e) All City personnel who with the approval of the Department Head are scheduled to be available or "on call" during regularly scheduled days off, may receive payment for such scheduled available or "on call" time at a rate of one and one half (1.5) hour of regular straight time pay for each twelve hour period or portion thereof during which an employee is required to be available or "on call". This payment shall be in addition to payments made to the employees for actual time worked. (Ord. No. 92-21, 12-7-92).

f) Employees called off work for weather related issues or other emergencies will be paid the hours that are worked. Employees may use benefit time to supplement hours or take it without pay.

Section 607. Timekeeping and Payroll.

a) Timekeeping. To ensure that the City has accurate time records and that employees are paid for all hours worked in a timely manner, nonexempt employees are required to accurately record all hours worked. Off-the-clock work is strictly prohibited. Nonexempt employees in departments which use a time clock should clock in at or very near their scheduled start time, and clock out at or very near their scheduled end of shift. All employees are required to verify that their time sheets accurately reflect all hours worked, and accurately reflect all meal periods and leave periods. An employee's electronic initials on his or her time sheet constitutes that employee's verification that all data on the time sheet is accurate, and the employee has not worked any time that is not reflected on the timesheet. Fraudulent timekeeping and falsification of time records are subject to discipline, up to and including termination of employment.

b) Payroll Deductions. The City is required by law to make certain deductions from employee pay each pay period, including federal income taxes, Social Security taxes, deductions required by wage garnishments or child support orders, deductions required

for union dues, and employee premiums for insurance plans. All deductions from pay will be listed on the employee pay stub. Questions about deductions from pay should be directed to the ~~Human Resources~~ or Finance Department.

ARTICLE VII - INTRODUCTORY PERIODS, PROBATION AND PERFORMANCE APPRAISAL

Section 701. General.

Employee performance and potential shall be evaluated annually. These evaluations will be used to: (1) improve employee effectiveness; (2) assess training needs and plan training activities. (Ord. No. 2000-20, 10-30-00).

Section 702. Introductory Periods and Probation.

a) The introductory period is an integral part of the selection process for original or promotional selection allowing training an employee and evaluating progress, adaptability and effort in order to determine the employee's fitness for the position. All employees who are not covered by a labor agreement shall have an introductory period when first hired by the City or when promoted or transferred into a new position. Employees who are covered by a labor agreement shall have a probationary period governed by the terms of the labor agreement, but shall not have an introductory period under this policy.

b) All newly hired part-time and full-time employees shall have an introductory or probationary period of six (6) months unless: (1) such employee is hired to fill a vacancy left by an employee who is on probation or in an introductory period in a new position and who could be returned to the former position, in which case such employee's probationary or introductory period shall be extended to match that of the former employee, or, (2) such employee must receive training and/or certifications. In the event that the employee's employment requires that he/she receive training and/or certifications, such employee's probationary or introductory period shall be extended for a period of six (6) months beyond the completion of such training and/or certification. Completion of the introductory period shall not modify any term or condition of employment, and shall not modify the at-will status of the employee. For employees covered by a labor agreement that requires a probationary period, the effect of completion of the probationary period shall be governed by the labor agreement.

c) Employees who accept or are assigned a new position shall have a six (6) month introductory or probationary period unless such employee must receive additional training and/or certifications. In the event that the employee must receive

additional training and/or certifications, such employee's introductory or probationary period shall be extended for a period of six (6) months beyond the completion of such training and/or certifications. Employees who are unable to achieve the required certification during this period shall be returned to their former positions at their former rates of pay, but without loss of seniority or benefits.

d) The Department Head shall submit to the ~~Director of Human Resources~~ Mayor, in writing, an evaluation and recommendation for appropriate action within the last month prior to the employee's eligibility for completion of the probationary or introductory period.

One of the following or some other appropriate action may be recommended by the Department Head:

1. Recommend, based on satisfactory performance by the employee, that the employee be continued in regular status.
2. Recommend, based on unsatisfactory performance, that the employee be dismissed.
3. Recommend, based on unsatisfactory performance, that the employee be demoted or returned to a former position.
4. Recommend that the probationary or introductory period be extended for a set period of time not to exceed six (6) months. Such extension shall be had only once. (Ord. No. 96-08, 7-16-96, Ord. No. 2000-20, 10-30-00).

ARTICLE VIII - LEAVE AND FRINGE BENEFIT REGULATIONS

Section 801. General Attendance Regulations.

a) Employees shall be in attendance at their work in accordance with departmental regulations. An employee unable to report for duty on a work day shall notify the supervisor in accordance with departmental policy. Employees are to report their absences directly to their supervisor and not have another person do so. If an employee fails to call in at least two (2) hours prior to work the employee may be subject to disciplinary action. Non-exempt employees may have their pay docked or be denied the use of paid sick leave for failure to call in as required by this policy. If an employee fails to report to work for one scheduled work day "no call - no show" without appropriate notification to their supervisor, his/her employment may be terminated.

Section 802. Holidays.

Holiday Pay. When required to work on a recognized holiday full-time, part-time and temporary employees shall be compensated at two and one half (2 & 1/2) his or her normal hourly rate.

For full-time and appointed employees, the City shall recognize eleven (11) regular Holidays, plus two floating Holidays with pay. Part-time or temporary employees will not be paid on the holiday unless it is worked time. Part-time employees employed before June 5, 2018, shall be entitled to such holidays with pay as occur during such employment, on a pro-rated basis, but shall not be entitled to any floating holiday pay. (Ord. No. 96-14, 10-1-96).

The Holidays shall include:

New Year's Day	January 1
Good Friday	Friday before Easter
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Veterans Day	November 11th
Thanksgiving Days	Fourth Thursday and Friday in November
Christmas Eve	24th of December
Christmas	December 25
New Year's Eve	31st of December

When any of the recognized Holidays fall on a Sunday, the Monday succeeding shall be designated as the legal holiday. When any holiday falls on a Saturday, the Friday preceding shall be designated as the legal holiday. If Christmas Eve, falls on a Friday and Christmas falls on a Saturday, or if New Year's Eve falls on a Friday and New Year's Day falls on a Saturday, the following Monday shall be observed as a holiday. If Christmas Eve falls on a Sunday and Christmas Day falls on a Monday, or if New Year's Eve falls on a Sunday and New Year's Day falls on a Monday, the preceding Friday shall be observed as a holiday.

When recognized Holidays fall on an employee's day off, the Department Head and employee will jointly designate the work day that shall be observed, or the employee will receive 8 hours of regular pay.

Holidays observed during a scheduled vacation period will not be counted as vacation time.

Employees that have been on sick leave prior and during a holiday will not have the holiday counted as a sick day.

Floating Holidays shall be scheduled by the employees at least 5 days in advance, with approval of their immediate supervisor.

Floating Holidays must be used in the fiscal year that they are given and may not be carried over or cashed out. (Ord. No. 96-08, 7-16-96).

Section 803. Vacation.

- a) This section provides for vacation for all full-time and appointed employees.
- b) An employee may not request vacation benefits beyond his/her full-time employment status. Vacation is authorized only when an employee takes time off from his/her regularly scheduled hours.
- c) All full-time employees earn vacation days in accordance with the following schedule:

<u>MONTHS OF SERVICE</u>	<u>RATE</u>
0- 60	8.00 hours per month
61-120	12.00 hours per month
121-180	14.00 hours per month
181-276	16.00 hours per month
277 and up	20.00 hours per month

Part-time employees employed before June 5, 2018, shall be entitled to vacation calculated on a pro-rated basis.

Vacation days shall continue to accrue while on sick leave, holidays, funeral leave, and vacation days.

c) As of the first day of each month, vacation days shall be allocated to the individual payroll and personnel record. Selection of vacation time is by seniority. Selection must be made by departmental deadlines as set by the Department Head. In the event of vacation scheduling conflict with another employee, the most senior employee shall have his/her preference if submitted within deadlines.

d) It is intended that vacation leave is to be taken during the calendar year following its accumulation.

Employees may carry over into the next calendar year the following additional hours:

<u>FULL TIME CONTINUOUS SERVICE</u>	<u>HOURS</u>
0-5 years	40
6 years or more	80

The calendar year shall begin January 1. Any additional hours of vacation carried over into the calendar year shall be used in the first six (6) months of the calendar year.

If an employee is unable to use his or her accumulated vacation in accordance with this article, the employee's surplus vacation shall be used by the employee at the direction of the Department Head or Mayor. If no dates can be scheduled and the employee is not able to take vacation in the first six months of the following year, said employee shall be compensated for the unused portion of vacation days earned by the next pay period following the six month period.

Section 804. Sick Leave.

a) All full-time and appointed employees working 40 hours per week shall earn one 8-hour day of sick leave with pay for each month of service and may accumulate without limit.

b) Payment in lieu of sick leave shall only occur upon termination of employment and will be based on years of service as outlined below:

<u>Full-time Continuous Service</u>	<u>Rate</u>	<u>Maximum</u>
0-5 years	5%	1440 hours
6-10 years	10%	1440 hours
11-15 years	15%	1440 hours
16-20 years	20%	1440 hours
20 and up	25%	1440 hours

c) To utilize sick leave, an employee must notify, or cause to be notified, the employee's supervisor a reasonable amount of time prior to the start of the employee's scheduled shift, or give such notification in accordance with department rules. An employee may not take sick leave benefits beyond his/her full-time employment status.

d) If sick leave exceeds three days, or if abuse of sick leave is suspected, the Department Head ~~or Human Resource Director~~ shall:

1. Require employees to submit a certificate from their physician stating that the illness prevented them from working, and/or

2. Require employees to receive a medical examination from a physician selected and paid for by the City.

The physician's documentation in 1) or 2) above must include the nature of the illness, the dates of treatment, whether the employee is able to perform normal work duties, and an indication of when the employee may return to work.

When applicable, the attending physician should specify whether light duties can be resumed.

If the employee does not obtain or submit the documentation required above, or if documentation is inadequate, paid sick leave may be denied.

Should a conflict arise between the decisions of the physician selected by the employee and the one selected by the City, the City's doctor will be used in determining eligibility for paid sick leave.

e) When employees are on leave due to illness or when they use sick leave for a period exceeding thirty (30) calendar days, neither vacation nor further sick leave benefits shall accrue for the additional period of time the employee is on leave.

f) Sick leave may be granted an employee by the Department Head in the event of a bona fide illness of a member of an employee's immediate family. For purposes of this section, immediate family shall include grandparents, parents, siblings, children or grandchildren of an eligible employee or an eligible employee's spouse. All notification and certification requirements shall apply if such sick leave is granted. For FMLA qualifying sick leave, please refer to Section 816. (Ord. No. 94-08, 3-15-94).

g) Part-time employees employed before June 5, 2018, shall receive sick leave benefits on a pro-rata basis.

h) Sick Leave Transfer.

1. Eligible employees are Full-Time and appointed employees.

2. (a) A sick leave transfer may be granted to an eligible employee upon a showing that the eligible employee (or a member of the eligible employee's immediate family) has become seriously injured or ill. For purposes of this section, immediate family shall include grandparents, parents, siblings, children or grandchildren of an eligible employee or an eligible employee's spouse.

(b) The Sick Leave Transfer Committee shall consider the nature and extent of the illness or injury and the estimated time of recovery in determining whether an injury or illness is "serious" under Section 2(a).

3. An eligible employee must exhaust all other benefit time to include; vacation leave, floating holiday, comp time and sick leave before he or she can use the transferred sick leave.

4. To apply for transferred sick leave, the eligible employee, or his agent if incapacitated, must submit a written

request for transferred sick leave, accompanied by a medical doctor's verification, to the eligible employee's Department Head. Such written request must be submitted at least five (5) days prior to the date when the eligible employee is scheduled to receive a regular pay check from the City. No request shall be approved for pay periods preceding the pay period in which a request is submitted.

(a) A Department Head may, on behalf of an employee, submit a verbal request followed by a written request to the Sick Leave Transfer Committee, in case of an emergency. An emergency shall include, but not be limited to, situations wherein the eligible employee is unable, for legitimate medical reasons, to submit a written request on his or her own behalf.

(b) The Department Head must notify the ~~Director of Human Resources and/or~~ Mayor of all written and/or verbal requests for transferred sick leave. The ~~Director of Human Resources or~~ Mayor will then contact the Sick Leave Transfer Committee members regarding the request. In the event the ~~Director of Human Resources or~~ Mayor are is unavailable, the Department Head may contact the Sick Leave Transfer Committee directly.

5. The Sick Leave Transfer Committee shall meet within three (3) working days after receiving a request for transferred sick leave.

6. In the event the Sick Leave Transfer Committee approves the request, the matter shall be referred to the ~~Director of Human Resources, or if unavailable, to the~~ applicant's Department Head who shall solicit the donation of sick leave from any or all eligible employees throughout the City. The names of any donor(s) shall be kept confidential by the Sick Leave Transfer Committee, Department Head, and any other City employee who must receive such information in order to appropriately track the sick leave of the applicant and all donors. The name of the employee who has received approval for his or her request shall be released to potential donors.

7. Donation: An Employee may transfer sick leave hours at the following rate per calendar year:

<u>DONOR'S ACCRUED SICK LEAVE</u>	<u>MAXIMUM ANNUAL HOURS WHICH CAN BE TRANSFERRED</u>
0 - 40	8 Hours
41 - 60	16 Hours
61 - 80	24 Hours
81 - 100	32 Hours
101 - 200	40 Hours
200 +	20% of Donor's Accrued Sick Leave

All donations must be made in multiples of Eight (8) hours, subject to the limits in the above chart. (Ord. No. 2006-26, 10/3/06).

8. Transferred Sick Leave will be applied on a "first donated, first used" basis. All hours first donated, regardless of number, shall be applied to the request prior to applying the hours second donated.

(a) No eligible employee shall receive transferred sick leave valued in excess of the gross monthly salary of said eligible employee.

(b) Gross monthly salary shall be the salary of the eligible employee at the time of the sick leave transfer request. Overtime shall not be considered.

(c) The employee and his Department Head may request additional transferred sick leave by filing a written request with the Sick Leave Transfer Committee, who shall rule on the request within three (3) working days.

(d) An eligible employee may apply for no more than six (6) months' worth of transferred sick leave. If more than six (6) months is required, it will be evaluated by the ~~Director of Human Resources~~ Sick Leave Transfer Committee on a case-by-case basis. The Sick Leave Transfer Committee shall have the authority to request additional information such as they deem necessary to determine whether the illness or injury is permanent in nature. If an employees' illness or injury is permanent in nature, the matter shall be referred to the Mayor, or a designee appointed by the Mayor, and/or Director of Human Resources ~~who~~ shall advise the employee of alternatives, including but not limited to disability retirement. (Ord. No. 94-22, 6-21-94).

(e) Transferred sick leave shall not exceed one month per request.

9. Any employee who willfully violates or misuses this sick leave policy or who misrepresents any statement or condition under said policy shall be subject to disciplinary action, as set forth in the Personnel Policies and Procedures of the City of Rock Springs. Any transferred sick leave that is withheld from an employee due to disciplinary action, will be returned to the donors.

10. The committee shall be appointed by the Mayor and shall consist of:

~~The Director of Human Resources~~

Two (2) City Department Heads
Two (2) City Employees
One (1) City Council Member on a rotating basis

The Department Head making the actual request will not be permitted to be a committee member, therefore, an alternate Department Head will be selected by the ~~Director of Human Resources and/or~~ Mayor. In the event the ~~Director of Human Resources and~~ Mayor ~~are~~ is unavailable, the alternate Department Head shall be selected by the remainder of the committee. (Ord. No. 93-03, 4-6-93; Ord. No. 93-19, 10/5/93).

Section 805. Leave of Absence Without Pay.

Upon application, the Department Head with approval of the Mayor, may grant an employee a leave of absence without pay for a period not to exceed one year, but no vacation or sick leave credit shall accrue during any such leave period. Employees on a leave of absence must pay their own health insurance premiums if they wish to maintain coverage, but may not continue to make payments into the Wyoming Retirement fund.

Reinstatement from any authorized leave without pay is permitted only when a proper leave of absence has been in effect; reinstatement must be requested no later than ten (10) working days before returning to work. Such requests will be made to the employee's Department Head.

The employee will return to the employee's former job, and will not lose his or her previous seniority, salary range, classification, or benefits in such cases where approved leave has been granted. (Ord. No. 96-08, 7-16-96, Ord. No. 2000-20, 10-30-00).

Section 806. Funeral Leave.

Full-time and appointed employees may be granted paid leave up to five (5) working days in each such case, to attend the funeral of immediate family as approved by the Department Head. Vacation must be used for funeral leave beyond five (5) working days. (Ord. No. 96-08, 7-16-96). Immediate family member for funeral leave is defined as parents, grandparents, brother, sister, child, grandchild, spouse, domestic partner, and equivalent relationships by marriage or adoption.

Section 807. Jury Duty/Court Leave.

(a) Any full-time employee required to appear in court or before a grand jury as juror, witness in a criminal case, or a witness in a civil case for the purpose of giving testimony shall be granted leave with pay by the Department Head. Compensation

for such leave shall be limited to the difference between pay received for this service and the employee's usual pay.

(b) A full-time employee who is called back to work, or to court in the case of a police officer, after completing his or her regular day's work or before the start of a regularly scheduled work shift, or on his or her day off, shall, in the case of the initial job responsibilities ending prior to two hours, be given the option of either leaving at the time when the initial job responsibilities have ended, or he or she can remain for two hours performing other tasks as assigned. (Ord. No. 96-08, 7-16-96).

Section 808. Voting Leave.

The City of Rock Springs will comply with the Wyoming Election Code Wyo. Stat. §§ 22-2-111.

(a) Any person entitled to vote at any primary or general election or special election to fill a vacancy in the office of representatives in the congress of the United States is, on the day of such election, entitled to absent himself/herself from any service or employment in which he/she is then engaged or employed for a period of one (1) hour, other than meal hours, the hour being at the convenience of the employer, between the time of opening and closing of the polls. Such elector shall not, because of so absentsing himself/herself, lose any pay, providing he/she actually casts his legal vote.

(b) This section shall not apply to an employee who has three (3) or more consecutive nonworking hours during the time the polls are open.

Section 809. Military Leave.

The City of Rock Springs will comply with the Wyoming Military Relief Service Act, (Wyo. Stat. §§ 19-11-101 through 124) or the Uniformed Services Employment and Reemployment Act (38 U.S.C. §§ 4301 through 4335).

A military leave of absence will be granted to employees who are absent from work because of service in the Armed Forces, National Guard or reserves in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Wyoming Military Relief Service Act. "Service" means performing military duty on a voluntary or involuntary basis, including active duty, duty for training, initial active duty for training, inactive duty training (such as drills), full-time National Guard duty, and absence for the purpose of a fitness exam.

Except in rare cases of military necessity where advance notice is impossible or unreasonable, employees are required to notify their

immediate supervisor in advance about impending military service. Employees are requested to provide such notice as soon as they have knowledge of upcoming military service. Notice may be either verbal or written; however, the City requests that upon receipt of written orders, a copy of those orders be forwarded to the Director of Human Resources City Clerk's Office within (10) ten days of receipt.

~~Pay by the City will be limited to the difference of the regular salary and the amount paid the employee by the Military, up to full salary. Also, a~~An employee may use any accrued vacation leave or compensatory time during the employee's military leave. Following the 15 days and the use of any accrued vacation or compensatory time the employee opts to use, the remaining military leave will be unpaid. USERRA also provides for continuation of health insurance benefits while on leave based on the length of the individual's military leave; however, the employee may be required to pay the City the employee's portion of premiums required by the insurance policy. Benefit accruals, such as vacation or sick leave, will continue to accrue during the military leave.

Employees on military leave for up to 30 days are required to return to work on the first regularly scheduled shift after the end of service, allowing reasonable time for travel. Employees on longer military leave must apply for reinstatement in accordance with USERRA and all applicable state laws. Once reapplication has been made, the employee must be ready, willing, and able to report to work at the date and time set by the City. As required under USERRA and applicable state law, employees returning from military leave will be placed in the position they would have attained had they remained continuously employed or a comparable position depending on the length of military service. Furthermore, they will be treated as though they were continuously employed for purposes of seniority-based benefits, if any.

Employees returning from military service will not be entitled to reinstatement as described above if any of the following conditions exist:

- The employee fails to reapply for reemployment in a timely manner.
- The City's circumstances have so changed as to make reemployment impossible or unreasonable.
- The employee was employed in a temporary position prior to his or her military service with no reasonable expectation that the employment would have continued indefinitely or for a significant period.
- The employee was discharged from military service for a disqualifying reason, such as a dishonorable discharge.

For additional information regarding your rights during a military leave, please see the USERRA notice posters on bulletin boards around City employment sites.

Section 810. Education Leave and Reimbursement.

The Mayor, upon application, may authorize special leave of absence for full-time or appointed employees, with or without pay, for any period not to exceed twelve (12) calendar months in any one calendar year for attendance at a school or university for the purpose of training in subjects relating to the work of the employee and which will benefit the employee and the City.

- (a) With the prior approval of the applicable Department Head and the Mayor, an employee may receive reimbursement for the cost of satisfactorily completed courses (those receiving a grade of C or better) which, in the opinion of the Mayor will be of benefit to the City. Reimbursement will be at 50% of tuition and books and not more than \$5,000 a year.
- (b) Approval must be requested at least six (6) months prior to the fiscal year that the education will be taken.
- (c) Courses of study which are required to maintain current levels of proficiency or which are required to receive additional and necessary certifications and/or ratings shall be paid in advance to the agency furnishing the service.
- (d) An employee may be required to pay his own insurance coverage if granted educational leave. Payments will not be made to Wyoming Retirement.
- (e) If he/she accepts education tuition reimbursement, the employee agrees to maintain full-time employment status at the City for a period of at least one (1) year from receipt of the last payment. If the employee does not maintain full-time status or his/her employment terminates for any reason within the one (1) year period, the employee agrees to repay the City for educational tuition amount received within the last year of employment. The employee signs a statement in which he/she specifically agrees to such an obligation.

Section 811. Employee Dress and Clothing Allowance.

All employees are representatives of the City and therefore dress and appearance should: (1) present a professional or identifiable appearance for customers, suppliers, and the public; (2) promote a positive working environment; (3) limit distractions caused by inappropriate dress; and (4) ensure safety while working.

- a. Employees required to wear identifying uniforms shall be allowed a clothing allowance or provided with uniforms. The maximum amount, if any, shall be determined annually

by the Governing Body Budget and Finance Committee. Disbursement shall be made only with the Mayor's approval on a semiannual basis and only persons still in the employ of the City at the time of disbursement shall be entitled to receive such payment.

- b. Where uniforms are not required, employees' attire should be business casual. Jeans are acceptable only on casual Friday or as designated by the Department Head.
- c. Employees are prohibited from wearing clothing that displays political paraphernalia or offensive language.
- d. Tattoos should not be offensive to the general public or detract from maintaining a professional image. Tattoos that show any image or have offensive language that may violate the City's Drug or Harassment and Discrimination policy must be covered during work hours.
- e. Body piercings should not detract from maintaining a professional image or be a safety concern.
- f. Employees will be provided required personal protective equipment as determined by applicable federal regulation and the best judgement of the Department Head.
- g. Management reserves the right to determine appropriateness in appearance.
- h. If an employee reports to work dressed inappropriately, they may be prevented from working until they return to work wearing the proper attire. The employee will not be compensated for the time they are away from work complying with this policy.
- i. Employees who wish to request an accommodation of the requirements for medical, religious or cultural purposes must make a request in writing to the ~~Director of Human Resources~~ Mayor.

Section 812. Workplace Injury Leave.

a) Any employee injured on the job, however slightly, must immediately report the fact to the supervisor. Along with the assistance of their supervisor they will complete the SUPERVISOR REPORT OF PERSONAL INJURY INVESTIGATION form and the Wyoming Worker's Compensation Report of Injury form within 24 hours and turn it in to the ~~City Clerk's office~~ Director of Human Resources.

b) An employee injured due to a work place injury that is unable to work for 3 or more consecutive days due to the injury, shall submit a claim for Worker's Compensation temporary total disability benefits. For full-time or appointed employees, the City shall pay the difference between the Worker's Compensation benefits and the employee's full pay for a 12-month period or until Wyoming Worker's Compensation determines that the employee is no longer entitled to temporary total disability benefit.

c) If the employee's medical provider determines that the

employee may return to work light duty, the ~~Director of Human Resources will work with the applicable~~ Department Head ~~to will~~ determine if light duty is available and will follow all Wyoming Worker's Compensation regulations.

d) Provided the employee complies with all Wyoming Worker's Compensation requirements, the employee will remain on injury leave for up to twelve (12) months after the accident. If the employee is still medically unable to return to work after the initial 12-month period, the employment will be terminated and any remaining benefits will be cashed out as per policy.

e) When an employee is on continuous injury leave for a period exceeding thirty (30) calendar days, neither vacation nor sick leave benefits shall accrue for the additional period of time the employee is on injury leave.

Section 813. Travel Policy

The City may reimburse employees and Council Members (hereinafter referred to as "employees") who incur expenses associated with seminars, conference, training programs, and City business when such expenses are approved by the Department Head and the Mayor.

Reimbursable events may include seminars, conferences, training program fees, meetings or other approved events if the program content is directly related to the employee's work which is pre-approved by the Department Head and the Mayor.

Any employee who seeks reimbursement for travel/business expenses must fill out a Request for Travel Authorization Form, secure approval from their Department Head and the Mayor, and follow the procedure set forth by Council Policy.

Section 814. Incentive Based Physical Fitness Program

This is a voluntary program, open to full-time employees and is designed to allow participating employees to earn compensatory time off for their level of fitness. Employee will follow the procedure as set forth by Council Policy.

Section 815. Other Benefits.

(a) Full-time and Appointed Employees may be entitled to such other benefits including, but not limited to, retirement benefits, seasonal holiday gifts, retirement gifts and the like, as the governing body deems appropriate, or as may be required by law.

(b) Health insurance benefits will be provided to full-time and appointed employees in such amounts and for such coverage as

the governing body deems appropriate; after taking into account the amount of funding available to pay for such coverage and the recommendation of the Mayor regarding the type of coverage which is most suitable for the City employees. Funding for such health insurance benefits shall be established by resolution of the Governing Body. In the event the maximum funding available in any given year is in excess of the amount required to maintain the health insurance coverage for the next calendar year, the excess funds shall be carried over and added to funds for the next fiscal year. Alternatively, the Governing Body, upon recommendation of the Mayor, may deem it appropriate to provide additional coverage, to be paid for with these excess funds. Prior to making any changes in the maximum available funding or the types of coverage to be made available to the City employees, the Mayor shall meet with representatives of such employees. Employee representatives may include members of bargaining units represented by unions, non-bargaining unit employees and retired employees.

(c) The City of Rock Springs will provide a membership to the employees at the Rock Springs Recreation Center, Civic Center and the White Mountain Golf Course using the following guidelines:

1. Full-time, appointed and official employees will be provided an individual or family membership to the Rec or Civic Centers as a taxable benefit. Membership at the White Mountain Golf Course will be at 50% of the regular cost.

2. Part-time and temporary employees will be provided an individual membership only to the Rec or Civic Centers as a taxable benefit. Membership at the White Mountain Golf Course will be at 50% of the regular cost.

3. When an employee terminates, membership will only be honored through the end of the month. No reimbursement will be provided for a membership that was paid past a termination date.

4. Employees will be responsible for completing the membership form and complying with all guidelines.

(d) The City provides an incentive based physical fitness program for all full-time and appointed employees.

Section 816. Family and Medical Leave.

The City will provide Family and Medical Leave to its eligible employees. The City posts the mandatory FMLA Notice and upon hire provides all new employees with notices required by the U.S. Department of Labor (DOL) on Employee Rights and Responsibilities under the Family and Medical Leave Act.

The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

If you have any questions, concerns, or disputes with this policy,

you must contact the ~~Director of Human Resources~~ Mayor or the City Attorney.

a) General Provisions

Under this policy, the City will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered ~~servicemembers~~ service member with a serious injury or illness) during a 12-month period to eligible employees. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

b) Eligibility

To qualify to take family or medical leave under this policy, the employee must meet all of the following conditions:

1) The employee must have worked for the City for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service obligations or when there is a written agreement, including a collective bargaining agreement, stating the employer's intention to rehire the employee after the service break. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on leave during the week.

2) The employee must have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave. The 1,250 hours do not include time spent on paid or unpaid leave. Consequently, these hours of leave should not be counted in determining the 1,250 hours eligibility test for an employee under FMLA.

c) Type of Leave Covered

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

1) The birth of a child and in order to care for that child.

2) The placement of a child for adoption or foster care and to care for the newly placed child.

3) To care for a spouse, child or parent with a serious health condition (described below).

4) The serious health condition (described below) of the employee.

5) Qualifying exigency leave (described below) for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered military member is on covered active duty or called to covered active duty.

6) Military caregiver leave (also known as covered ~~servicemembers~~ service member leave) to care for an injured or ill

servicememberservice member or veteran (described below).

d) Serious Health Condition

A serious health condition is defined as a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care by a licensed health care provider. This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first visit to the health care provider within seven days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

Employees with questions about what illnesses are covered under this FMLA policy or under the City's sick leave policy are encouraged to consult with the ~~Director of Human Resources~~City Attorney.

If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the City may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

e) Qualified Exigency Leave

An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service.

The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have to be a minor.) This type of leave would be counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.

The qualifying exigency must be one of the following:

- 1) short-notice deployment
- 2) military events and activities
- 3) child care and school activities
- 4) financial and legal arrangements
- 5) counseling
- 6) rest and recuperation
- 7) post-deployment activities, and

8) additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.

``Covered active duty`` means:

1) ``Covered active duty`` for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country.

2) Covered active duty or call to covered active duty status in the case of a member of the Reserve components of the Armed Forces means duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation, in accordance with 29 CR 825.102.

f) Military Caregiver Leave (for covered [servicememberservice members](#))

Eligible employees are entitled to FMLA leave to care for a current member of the Armed Forces, including a member of the National Guard or Reserves, or a member of the Armed Forces, the National Guard or Reserves who is on the temporary disability retired list, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status; or otherwise on the temporary disability retired list. Eligible employees may not take leave under this provision to care for former members of the Armed Forces, former members of the National Guard and Reserves, and members on the permanent disability retired list.

An employee whose son, daughter, parent or next of kin is a covered [servicememberservice member](#) may take up to 26 weeks in a single 12-month period to take care of leave to care for that [servicememberservice member](#).

In order to care for a covered [servicememberservice member](#), an eligible employee must be the spouse, son, daughter, or parent, or next of kin of a covered [servicememberservice member](#). An employer is permitted to require an employee to provide confirmation of covered family relationship to the covered [servicememberservice member](#) pursuant to § 825.122(k).

1) A ``son or daughter of a covered [servicememberservice member](#)`` means the covered [servicememberservice member](#)'s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered [servicememberservice member](#) stood in loco parentis, and who is of any age.

2) A ``parent of a covered [servicememberservice member](#)`` means a covered [servicememberservice member](#)'s biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered [servicememberservice member](#). This

term does not include parents "in law."

3) Under the FMLA, a "spouse" means a husband or wife, including those in same-sex marriages, which were made legal in all 50 United States as of June 26, 2015.

4) The "next of kin of a covered servicememberservice member" is the nearest blood relative, other than the covered servicememberservice member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the servicememberservice member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicememberservice member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicememberservice member, all such family members shall be considered the covered servicememberservice member's next of kin and may take FMLA leave to provide care to the covered servicememberservice member, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicememberservice member's only next of kin. For example, if a covered servicememberservice member has three siblings and has not designated a blood relative to provide care, all three siblings would be considered the covered servicememberservice member's next of kin. Alternatively, where a covered servicememberservice member has a sibling(s) and designates a cousin as his or her next of kin for FMLA purposes, then only the designated cousin is eligible as the covered servicememberservice member's next of kin.

The term "covered servicememberservice member" means:

1) a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

The term "serious injury or illness means:

1) in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the

member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

2) in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered servicememberservice member, means a qualifying (as defined by the Secretary of Labor) injury or illness incurred by a covered servicememberservice member in the line of duty on active duty that may render the servicememberservice member medically unfit to perform the duties of his or her office, grade, rank or rating.

3) Outpatient status, with respect to a covered servicememberservice member, means the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

g) Amount of Leave

An eligible employee can take up to 12 weeks for the FMLA circumstances c)1) through c)5) above under this policy during any 12-month period. The City will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the City will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

An eligible employee can take up to 26 weeks for the FMLA circumstance c)6) above (military caregiver leave) during a single 12-month period. For this military caregiver leave, the City will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

If a husband and wife both work for the City and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for the City and each wishes to take leave to care for a covered injured or ill servicememberservice member, the husband and wife may only take a combined total of 26 weeks of leave.

h) Employee Status and Benefits During Leave

While an employee is on leave, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. The employee shall not accrue additional

vacation, sick leave after 30 days or retirement credit for the period the employee is on unpaid FMLA leave.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premium during the leave period.

Under current City policy, the employee pays a portion of the health care premium. While on paid leave, the City will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Clerk's Office by the 1st day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave.

The City will provide 15 days' notification prior to the employee's loss of coverage.

If the employee contributes to a life insurance or disability plan, the City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums, or the City may elect to maintain such benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments, the City may discontinue coverage during the leave. If the City maintains coverage, the City may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

i) Employee Status After Leave

An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider. This requirement will be included in the City's response to the FMLA request. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions. The City may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

j) Use of Paid and Unpaid Leave

An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all paid vacation, compensatory time and sick leave prior to being eligible for unpaid leave. Sick leave will be used concurrently with FMLA leave if the reason for the FMLA leave is covered by the City's sick leave policy.

If the leave is for a work-related injury, paid injury leave will run concurrently with FMLA leave.

An employee who is taking leave for the adoption or foster care of a child must use all paid vacation and compensatory time prior to being eligible for unpaid leave.

An employee who is using military FMLA leave for a qualifying exigency must use all paid vacation and personal leave prior to being eligible for unpaid leave.

An employee using FMLA military caregiver leave must also use all paid vacation, personal leave or sick leave (as long as the reason for the absence is covered by the City's sick leave policy) prior to being eligible for unpaid leave.

k) Intermittent Leave or a Reduced Work Schedule

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill ~~servicememberservice member~~ over a 12-month period).

The City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances of when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

For the birth, adoption or foster care of a child, the City and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with the City before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary.

l) Certification for the Employee's Serious Health Condition

Employees who want to take FMLA leave ordinarily must provide the ~~department~~ Department director ~~hHead~~ and the ~~Director of Human Resources~~ City Clerk at least thirty (30) days' notice of the need for leave, if the need for leave is foreseeable. If the employee's need is not foreseeable, the employee should give as much notice as is practical. When leave is needed for the employee's own illness and is for planned medical treatment, the employee must

try to schedule treatment in order to prevent disruptions of the City's operations.

The City will require certification for the employee's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the DOL Certification of Health Care Provider for Employee's Serious Health Condition.

The ~~Director of Human Resources City~~ may directly contact the employee's health care provider for verification or clarification purposes. The City will not use the employee's direct supervisor for this contact. Before the City makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA Medical Privacy Rules, the City will obtain the employee's permission for clarification of individually identifiable health information.

The City has the right to ask for a second opinion if it has reason to doubt the certification. The City will pay for the employee to get a certification from a second doctor, which the City will select. The City may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the City will require the opinion of a third doctor. The City and the employee will mutually select the third doctor, and the City will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

m) Certification for the Family Member's Serious Health Condition

Employees who want to take FMLA leave for a family members serious health condition ordinarily must provide their ~~Department director Head and the Director of Human Resources~~ at least thirty (30) days' notice of the need for leave, if the need for leave is foreseeable. If the need is not foreseeable, the employee should give as much notice as is practical. When leave is needed to care for an immediate family member and is for planned medical treatment, the employee must try to schedule treatment in order to prevent disruptions of the City's operations.

The City will require certification for the family member's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the DOL Certification of Health Care Provider for Family Member's Serious Health Condition.

The ~~Director of Human Resources City~~ may directly contact the employee's family member's health care provider for verification or clarification purposes. The City will not use the employee's direct supervisor for this contact. Before the City makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA Medical Privacy Rules, the City will obtain the employee's family member's permission for clarification of individually identifiable health information.

The City has the right to ask for a second opinion if it has reason to doubt the certification. The City will pay for the employee's family member to get a certification from a second doctor, which the City will select. The City may deny FMLA leave to an employee whose family member refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the City will require the opinion of a third doctor. The City and the employee will mutually select the third doctor, and the City will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

n) Certification of Qualifying Exigency for Military Family Leave

The City will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification of Qualifying Exigency for Military Family Leave.

o) Certification for Serious Injury or Illness of Covered ServicememberService member for Military Family Leave

The City will require certification for the serious injury or illness of the covered ~~servicememberservice member~~. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification for Serious Injury or Illness of Covered ~~ServicememberService member~~.

p) Recertification

The City may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days unless circumstances have changed significantly, or if the employer receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. Otherwise, the City may request recertification for the serious health condition of the employee

or the employee's family member every six months in connection with an FMLA absence. The City may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.

q) Procedure for Requesting FMLA Leave

All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to the City Clerk's office ~~Director of Human Resources~~. Within five business days after the employee has provided this notice, the City Clerk's office ~~Director of Human Resources~~ will complete and provide the employee with the DOL Notice of Eligibility and Rights.

When the need for the leave is foreseeable, the employee must provide the employer with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with the City's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

r) Designation of FMLA Leave

Within five business days after the employee has submitted the appropriate certification form, the City Clerk's office ~~Director of Human Resources~~ will complete and provide the employee with a written response to the employee's request for FMLA leave using the DOL Designation Notice.

s) Intent to Return to Work From FMLA Leave

The City may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. If at any point, an employee gives notice that they will not be returning from FMLA leave, the Department Head will request a written resignation. The City's obligation for restoration rights ends when an employee informs his/her Department Head that he or she will not be returning. The City will also stop paying its share of health care costs at that time and notify the employee of benefits under COBRA.

ARTICLE IX - CONDUCT AND DISCIPLINE

Section 901. Conduct, Outside Employment, Privileged Information and Political Activities.

All City employees are expected to represent the City to the public in a professional, courteous, efficient and helpful manner. All employees will work to meet the following expectations: basic tact and courtesy towards the public and fellow employees; adherence to City policies, procedures, safety rules and safe work practices; compliance with directions from supervisors; preserving

and protecting the City's equipment, grounds, facilities and resources; and providing orderly and cost efficient services to its citizens.

In order to function efficiently or to meet service demands, employees may be asked to perform related duties that are outside their regular assignments. The City will make every effort to minimize such circumstances. To make the most efficient use of personnel, the City also reserves the right to change work conditions and assigned duties.

a) A City employee is prohibited from engaging in activities which might have an unfavorable effect upon City service. Employees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment, seeking preferential treatment, or similar such dubious activities or practices.

b) City employees are prohibited from soliciting or accepting any personal gift, gratuity, favor, entertainment, loan or any item with a cash value exceeding \$25.00 from any person seeking to obtain business with the City or any other thing of value from the City, or from any person within or outside City's employment whose interests may be affected by the employee's performance or non-performance of official duties.

c) No employee may engage in additional employment which in the opinion of the Department Head interferes with the proper and effective performance of official duties. It is necessary that an employee give priority to his/her job with the City of Rock Springs. The City shall not be held liable to grant sick leave in any cases of injury to an employee while that employee is engaged in outside employment.

d) City employees who are involved with privileged or non-public information of significant public interest may not use this information for personal gain nor to benefit friends or acquaintances. If an employee has an outside interest which could receive a pecuniary gain by any City plan or activity, this situation must be reported to the employee's supervisor immediately. Each employee is charged with the responsibility of insuring that only information that should be made available to the general public is released.

e) The following political activities are prohibited:

1. use of an official capacity or authority to influence the outcome of any election or to coerce or command any person to vote for, lend or contribute anything of value to any political candidate.

2. engaging in any political campaign activity during on duty or working hours.

3. employees will not be in city uniforms or clothing with a City logo while campaigning for political office or a political candidate.

f) Except for those positions for which political affiliation or association is an appropriate requirement for the effective performance of the public position, discrimination against any person in recruitment, examination, appointment, retention, discipline, or any other aspect of personnel administration because of political opinion or affiliation shall be prohibited. No questions shall be asked on any application, examination or interview which would directly or indirectly require the disclosure of a person's political affiliation, preferences or opinions. Applicants and employees shall be prohibited from using political influence as an advantage in securing or making appointments or for other personal benefit for themselves or others in personnel matters.

g) Violation of these provisions shall be just cause for disciplinary action.

Section 902. Use of City Technology.

a) All City computer and communications systems, such as telephone systems, voicemail, e-mail, cellular devices, texting or instant-messaging devices, computers, networks, data storage, Internet access, and associated software products, as well as all data and information transmitted by, received from, or stored on those systems, are the property of the City. As such, these systems are to be used for job-related purposes only.

The City recognizes that employees must sometimes place or receive personal calls on company telephones or use the City's electronic communication and Internet systems for personal purposes. In order to preserve the integrity and availability of these systems for business use, it is essential that all employees minimize and not abuse personal use of these systems. Employees using the City's computer and communications systems and business property for personal use do so at their own risk and should have no expectation that their personal communications and uses are confidential, private or privileged. To ensure that the City's computer and communications systems and equipment are used only for legitimate business purposes, the City may monitor the use of such systems from time to time, without prior notice. This may include listening to stored voicemail or monitoring an employee's use of the Internet, e-mail, texting, voice mail and other the City computer systems.

b) Using the City's computer and communications systems in the

following way is expressly prohibited and may result in discipline, up to and including termination:

- Using City systems for excessive participation or use of social media, shopping or entertainment sites. Excessive participation or use is any participation or use that interferes with or delays the performance of work.
 - Accessing sites established for illicit or immoral purposes.
 - Conducting personal business for revenue or profit.
 - Sending, accessing, receiving, posting or storing data that are discriminatory, harassing, or defamatory.
 - Sending, accessing, receiving, posting or storing sexually explicit material.
 - Using City systems to send or post intimidating messages or hate speech.
 - Using City systems for the purpose of gambling or placing wagers or bets.
 - Using City systems to conduct illegal activities.
 - Sending, receiving or posting messages that contain inappropriate or profane language.
 - Installing personal software or applications on City-issued computers or other devices.
 - Downloading, copying or transmitting works of others in a manner that constitutes infringement under copyright laws.
 - Transmitting or posting confidential City information to unauthorized individuals.
- c) In addition, employee will follow any procedures as set forth by Council Policy regarding information technology.

Section 903. Personal Cell Phone Use

a) Employees should use discretion in regard to personal phone calls, including cell phones, texts, games or social media. Lengthy personal calls are prohibited. Every attempt should be made for employees to limit phone usage to breaks or meal periods.

b) Employees must follow City Ordinance 5-208 Regulation of Cell Phones in Vehicles. Employees may not use any cell phone while operating a city vehicle or operating equipment. They will be subject to the same fines as described in Ordinance 5-208 and may be subject to disciplinary action up to and including termination.

c) Supervisors will monitor phone usage. Excessive use of a telephone/cell phone for personal calls, texts, games or social

media use may result in disciplinary action.

Section 904. Vehicle Usage

a) City vehicles shall be operated in compliance with existing State Statutes, City ordinances, and City policies and procedures.

Employees operating City vehicles shall have in their immediate possession a current, valid, and applicable vehicle operator's license. Any employee who operates a City vehicle will be subject to an annual driving record check. Employees must immediately notify their supervisor and/or Department Head if a change in licensing occurs that may have an impact on the employee being able to perform their regular job duties. This will be reviewed with the ~~Director of Human Resources~~ Mayor for any further action. Failing to provide proper notification may result in disciplinary action, up to and including termination.

Department Heads are responsible for ensuring the proper care, maintenance, and operation of all vehicles assigned to their Department.

Accidents involving City vehicles shall be investigated per Wyoming statute. Additionally, a Departmental inquiry shall be conducted within (10) working days of any accident to determine the presence of any operational, safety, and/or mechanical factors contributing to the accident, to include compliance with the Section 906 Drug and Alcohol. Such inquiry shall include a written report to the Department Head, detailing any contributing factors as well as providing recommendations on avoiding future similar accidents.

b) Safety Issues - City vehicles shall be operated in a reasonable and prudent manner.

A pre-check inspection should be conducted of each vehicle

Safety devices (horns, lights, warning devices, etc.) shall be operable and properly utilized. Where existing, occupant restraint devices shall be continuously worn per manufacturer guidelines by all occupants of City vehicles.

Vehicle operators shall not be under the influence of any alcoholic beverage or contraindicated drug.

c) Operation of City Vehicles - City vehicles shall be operated only by City employees authorized to do so by their Department Head.

When not in actual use, or when left unattended in the course of carrying out City business, City vehicles shall be properly secured.

When not in actual use, City vehicles shall be properly parked or otherwise housed on city property.

d) Use of City Vehicles - While City vehicles are legitimate tools for performing City business, their use is also accompanied by serious responsibility and accountability. As such, all

employees shall present a professional image and exhibit exemplary driving behavior when operating or otherwise utilizing city vehicles. To this end, employees shall at all times consider the public's perception of City vehicle appearance, operator/occupant behavior, and vehicle use and location.

Except as otherwise specified, City vehicles shall be used for official City business only. In no circumstances shall City vehicles be directly or indirectly used for purposes of personal gain.

e) Special Provisions

1. Passengers - passengers in City vehicles are limited to:

- Employees transported for purposes of carrying out official City business.
- Persons participating in an approved ride-along program.
- Persons transported during extreme emergency situation.
- Persons transported in conjunction with an arrest or other legitimate public safety matter.
- Non-employees transported for purposes of carrying out other legitimate City business.
- Other passengers as approved in writing by the applicable Department Head and Mayor.

2. Employees operating City vehicles on an as-needed or On-call basis are responsible for ensuring the reasonable maintenance, safety, repair, and cleanliness of the vehicle operated while in their care.

3. Employees operating a City vehicle to conduct legitimate City business may utilize the vehicle for purposes of taking a scheduled meal break in the City, if such break is clearly incidental to a reasonably direct travel route to/from work assignments.

4. Employees temporarily assigned an On-call Vehicle for on-call purposes may use such vehicle for commuting while assigned.

Section 905. Purpose of Disciplinary Action, Examples of Offenses.

a) The purpose of discipline is to correct an employee's behavior so that the employee will be more effective and responsible within the City; and, to insure that individual employees are called to account for their misconduct or inappropriate behavior. All efforts should be made to insure that discipline is applied with reasonable consistency within the City and that any disciplinary action taken is not only appropriate to the offense committed, but takes into account the individual

employee's past record, pattern of behavior, attitude, his/her motives and reasons for committing the offense, and all other attendant circumstances. Employment with the City of Rock Springs shall be deemed a privilege and not a right; and, an employee shall have no right to expect his employment with the City to continue uninterrupted by disciplinary actions including dismissal.

b) Causes for discipline fall within a wide range offenses. The following list of offenses is intended to serve as a guide for the application of disciplinary measures only. The following list provides examples of problems and are intended neither to be all inclusive nor mutually exclusive, for it would be impossible to list all potential infractions requiring discipline and consideration of all attendant circumstances.

Examples of offenses include, but are not limited to:

- Failure to follow direction
- Absenteeism or tardiness.
- Failing to call in on time to let your supervisor know that you will be absent or late.
- Quitting work early.
- Not paying attention to work.
- Violation of a safety rule or practice.
- Violation of any city council policy (such as smoking law)
- Poor job performance or conduct.
- Sleeping on the job.
- Abuse of sick leave.
- Insubordination or other disrespectful conduct.
- Refusing to do an assignment (unless it can be demonstrated by the employee that such assignment unreasonably endangers the health and safety of the employee and others).
- Careless conduct which threatens the safety or causes harm to the employee or others.
- Use of City position for personal gain or benefit of friends or acquaintances.
- Demonstrated (documented) incompetency or inefficiency in the performance of job duties.
- Theft or intentional, willful, negligent or careless destruction of City property.
- Offensive conduct while on the job.
- Intentional falsification of City records.
- Fighting, threatening violence or creating hostility in the workplace.
- Unauthorized use of telephones including excessive personal calls, mail system, information technology systems or other city-owned equipment;
- Working while impaired by alcohol or drugs.
- Conviction for any misdemeanor offense which, in the opinion of the Department Head will have a direct adverse effect on the employees ability to effectively discharge the required job duties or which may adversely affect or injure the public reputation of

the City.
- Conviction for any felony offense.

Section 906. Disciplinary Actions.

a) The City of Rock Springs encourages a system of disciplinary action in order to correct employee misconduct at as low a level as is reasonably possible. The disciplinary action process may start at any step based on the offense and will be in consultation ~~of with~~ the ~~Director of Human Resources~~ Mayor. Department Heads and supervisors are allowed a great deal of discretion in determining appropriate disciplinary measures, but are encouraged to first consider the least severe type of action reasonably necessary to correct the problem and call the employee to account for his actions. More severe measures should be applied to repeat offenses. Some offenses by virtue of the seriousness of their nature or the attitude and motives of the employee or other attendant circumstances will call for the immediate application of severe disciplinary measures. An employee who is covered by a labor agreement may be permitted to have a representative of any union of which the employee is a member present at any and all investigative interviews or hearings that may lead to discipline of the employee. (Ord. No. 96-08, 7-16-96)

b) The disciplinary actions that may be taken against an employee include: oral warning, written reprimand, written reprimand and suspension without pay for periods not exceeding five (5) days, written reprimand and suspension without pay for periods exceeding (5) days, and dismissal. Oral warnings, written reprimands and suspensions without pay for periods not exceeding five (5) days are not subject to review through either the grievance or appeal procedures. Suspensions of more than five (5) days, and dismissals are subject to the grievance procedure.

Prior to determining whether any disciplinary action is necessary and/or what type of discipline is to be given, the supervisor or Department Head shall meet with the employee and inform him/her of the facts which the supervisor or Department Head believes give rise to a disciplinary action. The supervisor or Department Head shall give the employee an opportunity to respond and give his/her account of these facts which the supervisor or Department Head shall consider prior to determining what, if any, discipline is appropriate.

c) All disciplinary actions, including oral warnings, shall be documented by the supervisor or the Department Head, in consultation with the ~~Director of Human Resources~~ Mayor, with a copy provided to the employee. The documentation should describe the details of the conduct, how the conduct violates policy or otherwise requires disciplinary action, the details of the

corrective action, and the possible future consequences if further misconduct occurs. The employee shall be allowed the opportunity to sign the disciplinary documentation solely for the purpose of acknowledging receipt of a copy of the documentation. If the employee refuses to sign a copy of the documentation, the supervisor or Department Head shall note the date, time and witnesses of the employee's refusal on the original disciplinary documentation. The disciplinary action may include a performance improvement plan. The supervisor or Department Head shall forward the original disciplinary documentation to the City Clerk's office ~~Director of Human Resources~~ for placement in the employee's personnel file. The employee has the right to submit a written statement refuting the disciplinary documentation to be placed in the employee's personnel file.

d) Dismissal. It is the policy of the City that dismissal is reserved for those situations when the offense is of such a character or nature (in the opinion of the Department Head considering all attendant circumstances) that dismissal is appropriate. Dismissal of an employee requires the prior approval of ~~the Director of Human Resources and~~ the Mayor, which shall be given only after consultation with the City Attorney; and, shall be set forth in writing, stating the reasons for the dismissal.

Section 907. Drugs and Alcohol.

a) The City of Rock Springs recognizes illegal drug usage and abuse of alcohol by City employees as a threat to the public welfare as well as to the welfare of other employees of the City. Employees are prohibited from using illegal drugs at any time and being under the influence of illegal drugs or alcohol while working, including while being on-call. The City will take necessary steps, including drug and alcohol testing, to eliminate illegal drug usage, and to identify and discipline employees who report to work under the influence of illegal drugs or alcohol. Violations of this policy may result in the termination of employment, however, the City will consider options that promote rehabilitation and prevention when those options are in the best interests of the City.

1. If an employee is under the care of a medical provider and taking a controlled substance by prescription, they will be required to consult with their medical provider about any impacts the medication may have on their ability to perform their job safely, and notify their Department Head of the medical provider's advice on that topic so the Department Head can take the appropriate steps necessary to assess the risk and make appropriate task assignments. If requested by the Department Head, the employee shall provide the Department Head with a statement signed by his or her medical provider confirming the medical provider's advice regarding the

employee's ability to perform regularly assigned duties.

2. Pre-employment Testing. All successful applicants for safety sensitive positions are subject to a post-offer, pre-employment drug and alcohol screen. If the test results are positive, the offer will be withdrawn.

3. Random Testing. Random drug testing will be performed on all employees with a commercial driver's license, police officers and fire fighters, and employees in safety sensitive positions. Safety sensitive positions include any position within the City that requires an employee to drive a City vehicle, operate equipment, or lifeguard.

4. DOT Testing. Employees required to have a commercial driver's license (CDL) as outlined in their job description, will comply with all Department of Transportation requirements regarding drug testing, as discussed in the City's Drug and Alcohol Program for DOT-regulated Employees.

5. Reasonable Suspicion Testing. If, in the opinion of the employee's supervisor or the Department Head, there is a reasonable suspicion to believe that an employee is under the influence of alcohol or an illegal drug, the employee may be required to submit to testing.

- i. Reasonable suspicion may be based upon specific objective facts and reasonable inferences drawn from those facts, that could be indicative of illegal drug use or being under the influence of drugs or alcohol, including, (a) the observations of the supervisor or Department Head, taking into account such things as glazed eyes, dilated pupils, smell of alcohol, slurred speech, unsteady on feet, wobbly walk, change in normal appearance, change in attitude, aggressive behavior, being passed out; (b) investigation, arrest or conviction for a drug-related offense; (c) reports from apparently reliable and credible sources; (d) observation of drug use; (e) evidence that the employee tampered with a previous drug test; or, (f) any other grounds or reasons which the supervisor or Department Head is able to articulate as giving rise to a reasonable suspicion.
- ii. The supervisor or Department head must immediately document all information on which the reasonable suspicion is based, as well as the date and time the information was obtained, and obtains the approval for testing from his or her Department Head or the ~~Director of Human Resources~~ Mayor. The employee shall be given a copy of this documentation.

iii. Any employee who will be tested for reasonable suspicion will be placed on immediate sick leave, or if sick leave is unavailable, leave without pay. The employee will be transported immediately by the supervisor or Department Head to the place where the test is to be performed and thereafter to the employee's residence. In no case shall an employee who is suspected of being under the influence of drugs or alcohol be allowed to operate a vehicle or machinery, or to return to work until the test results are obtained.

5. Post-accident Testing. Testing of employees in safety-sensitive positions shall be required immediately following work related accidents which involve death or personal injury to self or others and/or property damage.

6. Follow-up Testing. Employees who have been permitted to return to work following completion of a drug or alcohol rehabilitation program will be subjected to periodic, unannounced testing, for the frequency and duration recommended by a substance abuse professional consulted by the City.

7. Procedures.

a. Drug testing will be performed at a laboratory certified by the U.S. Department of Health and Human Services under the National Laboratory Certification Program.

b. All test results will be sent to the ~~Director of Human Resources~~ Mayor, or a designee appointed by the Mayor, who will evaluate those results and make the results available to the Department Head and the individual who was tested. Test results shall be treated with the same confidentiality as other employee medical records.

c. In the event alcohol and drug screening tests result in one negative, the employee will be compensated as to his regular duty assignment with no time lost and no sick leave deducted.

d. Employees who refuse to submit to testing pursuant to the provisions of this policy will be subject to disciplinary up to and including termination and/or administrative actions.

e. A positive and confirmed test result will be the basis for immediate placement on sick leave until an investigative or disciplinary review by the ~~Director of Human Resources~~ Mayor and Department Head is concluded.

f. An employee's first positive test result under this section may not result in dismissal. The City will consider permitting the employee to seek rehabilitation as an alternative to the

termination of employment, after consideration of the employee's acceptance of responsibility, employment history with the City, general job performance, disciplinary history, and work-related impacts of the employee's drug or alcohol use.

- g. No employee who is permitted to seek rehabilitation as an alternative to termination of employment will be permitted to return to work without written confirmation from a substance abuse professional that the employee has completed the rehabilitation program and complied with all recommendations of the substance abuse professional, and, the employee will be placed on a return-to-work agreement that will require unannounced follow-up testing and confirm that any subsequent violation of this policy will result in the termination of employment.
- h. At any time, an employee may voluntarily enter a chemical dependency or treatment program without fear of disciplinary actions against him or her. While undergoing evaluation and treatment, the employee may receive the usual compensation and fringe benefits provided for any other sick leave.

Section 908. Policy Prohibiting Harassment.

Harassment is a form of illegal discrimination. The City strictly prohibits harassment of any employee by another employee, supervisor, elected official, vendor or member of the public because of the employee's race, creed, color, national origin, age, religion, sex, ancestry, marital status, disability, military status or any other unlawful basis.

Definition:

1. Harassment includes any verbal or physical conduct of an offensive nature that is based on any protected characteristics as listed above, including offensive comments, jokes, innuendo, insults or other forms of inappropriate conduct based on such characteristics. Harassment also includes offensive or harassing statements or conduct which is motivated by an employee's protected characteristics, whether or not the statements or conduct are overtly derogatory toward those protected characteristics.
2. Such prohibited behavior includes, but is not limited to:
 - a. offensive and unwelcome sexual flirtations, advances, or propositions;
 - b. verbal abuse;

- c. degrading comments about an individual or his/her appearance;
 - d. unwelcome "jokes";
 - e. the display of sexually suggestive objects or pictures;
 - f. or any offensive or abusive physical contact.
3. In addition, sexual harassment is defined as unwelcome sexual or other conduct that interferes with an individual's job performance or creates an intimidating, hostile or offensive environment. All employees, including both supervisory and non-supervisory personnel, are prohibited from engaging in unwelcome sexual conduct or making unwelcome sexual overtures, either verbal or physical.
 4. Supervisors are specifically prohibited from implying or stating that submitting or refusing to submit to sexual advances will have any effect on the individual's hiring, placement, compensation, training, promotion, or any other term or condition of employment.
 5. It is important to recognize that the fact that someone did not intend to sexually harass an individual is no defense to a claim of sexual harassment. Regardless of intent, it is the effect and characteristics of the conduct that determine whether the conduct constitutes sexual harassment.

RESOLUTION PROCESS:

1. Each supervisor is responsible for maintaining and enforcing harassment -free working environment and for responding to the supervisor's observation or awareness of conduct which violates this policy.
2. Employees are to report any behavior that they believe to be harassment to their supervisor, their Department Head or the ~~Director of Human Resources~~ Mayor.
3. The employee raising a concern under this policy may be requested to provide details about the concern in writing, providing sufficient detail and specifics to allow for a thorough investigation.
4. Complaints of harassment will be investigated by the ~~Human Resources Department~~ Mayor or a designee appointed by the ~~Director of Human Resources with the approval of the~~ Mayor. At the conclusion of the investigation, ~~Human Resources~~ the Mayor will determine whether this policy or any other City policy has been violated, and the appropriate action to be taken, including disciplinary action if deemed warranted. The reporting employee will be notified of ~~Human Resources~~ Mayor's determination, and, if the policy has been violated, that corrective action has been taken.

5. Confidentiality of the report and investigation will be maintained to the greatest degree possible consistent with the need to conduct a thorough and complete investigation.
6. Any employee who is found to have engaged in behavior prohibited by this policy will be subject to disciplinary action up to and including termination.
7. An employee who may be subject to disciplinary action for violation of this policy will be permitted to have a representative of any union of which the employee is a member present or their own legal counsel at any investigative interview or disciplinary meeting.
8. No employee who reports harassment, discrimination or a hostile work environment shall be retaliated against in any manner for making such report. See Policy Prohibiting Retaliation.