**CITY OF BOULDER**

**Employee Policy and Procedure Manual**

Adopted: December 20, 2021, excluding the Call-Out Section

 February 22, 2022, Call-Out Section adopted

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Welcome New Employee:

The City of Boulder is pleased you have joined our organization The City of Boulder is a professional organization providing many valuable services to the residents of the City of Boulder and its visitors. Your position will assist the City of Boulder with accomplishing these services. We hope you will find this position rewarding and challenging.

During your 12-month probationary period, your employment with the City of Boulder is at will and may be terminated with or without consent at any time by either you or the City of Boulder. This policy manual is not an employment contract. Rather, it is designed to provide you general information regarding City employment practices and benefits. The policy manual cannot cover all employment situations, scenarios, or questions, but it is designed to cover the basic rules. Policies and rules will be added, updated, or deleted as determined by the City. You are encouraged to submit suggestions or ideas regarding current or additional policies to the Mayor or City Clerk.

As you familiarize yourself with the City of Boulder and your new position, please note the employee bulletin board displays the required federal and state postings. These postings are updated from time to time and distributed to staff. Be sure to read the bulletin board occasionally.

During your first few days working for the City of Boulder you will probably have several general questions regarding our organization and policies. You are encouraged to research the answer within the manual; however, do not hesitate to visit with your supervisor, the Mayor or City Clerk.

The staff of the City of Boulder welcomes you.

Sincerely,

*Mayor*

**EMPLOYEE POLICY and PROCEDURES HANDBOOK (Adopted December 20, 2021)**

It is expressly understood that the policy manual for the City of Boulder does not constitute a guarantee of employment or promise of any kind. The City, in its sole discretion, may direct, hire, promote, transfer, assign and retain employees; supervise, discipline, and relieve employees from their duties; determine and change hours of work, shifts, and methods of operation; establish, change, or abolish its policies, practices, rules and regulations.

It is understood that the policy manual is issued to inform employees regarding the operating policies of the City of Boulder and is to be used as a guide to City of Boulder employees in the performance of their duties. The policy manual may be changed from time to time at the sole discretion of the City. All such changes will be communicated through official notices, and I understand that revised information may supersede, modify, or eliminate existing policies. Violations of the policies set forth in this manual may result in disciplinary action up to and including termination.

By signing this statement, the employee acknowledges the City of Boulder policy manual has been received and that it is your responsibility to read and comply with the policies contained in this handbook.

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Effective Date of Employment: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attest:

Supervisor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The community of Boulder has existed since the mid 1800's. The settlement developed as a result of the area's agriculture and mining activities. The junction of the Boulder River and several stagecoach routes made an ideal setting for settlement.

The Town of Boulder was incorporated with the first Council meeting held on May 1, 1911, in the Bank of Boulder Building on Main Street. The meeting was presided over by newly elected Mayor L.Q . Skelton and the first Aldermen: D.M. Halford and B.E. Barteau from the First Ward and Dr. A.L. Ward and Lees Taylor from the Second Ward.

A mission for the new community was defined in Mayor Skelton's inaugural address which stated, in part,

"We are now about to put into operation the municipal government of the Town of Boulder. We are all inexperienced so far as work of this kind is concerned, but some are ripe in the affairs of life. What others have successfully done, I have faith that we can do. If we address ourselves the civic affairs with the same fidelity that we do to private affairs, there is but one outcome and that is a great good to the Town and the community."

"In the first place the spirit of co-operation should be cultivated. Not all can govern, some must govern and others obey. In essentials all should be a unit; in non-essentials all should be liberal."

"...These are only a few things to engage our attention and that of the public generally for some time to come. It is quite to be expected that plans will be undertaken that will take years to bring to completion. In all, however, your earnest thought and enthusiastic assistance is earnestly solicited."

" With this salutatory we introduce the new order of things with high hopes and absolutely no fears for the future."

In addition to mining and agriculture our community has been home since the late 1800's to institutions dedicated to the disabled. In the past decade we have also become host to several facilities dealing with youth at risk. These facilities are an integral part of our community and its culture.

The Town of Boulder was upgraded to a City of the third class, officially becoming the City of Boulder with a Resolution passed by Council action on October 22, 2001

#### *Definitions*

**Absence** -the failure to report to work and to remain at work as scheduled. It includes late arrivals and early departures as well as absence for the entire day.

**Conflict of Interest** - Conflicts of interest for municipal employees arise when a government employee's personal or financial interest conflicts or appears to conflict with their official responsibility.

**Employee Discipline** - is defined as the regulations or conditions that are imposed on employees by management in order to either correct or prevent behaviors that are detrimental to an organization.

**Exempt Employee** - Exempt employees are those who, according to the Fair Labor Standards Act (FLSA), are not covered under the provisions pertaining to minimum wage or overtime pay. The FLSA provides for certain exemptions for employees employed in a bona fide executive, administrative or professional capacity. In order to be an exempt employee, certain tests relating to duties, responsibilities and salary must be met. See the City Clerk for details.

**Grievance** - An injury, injustice or wrong which gives ground for complaint because it is seen as unjust, discriminatory, or oppressive. Employees file grievances through the Grievance Procedure contained in this manual.

**Immediate Family**-Theemployee's spouse, or any parent, child, sibling, grandparent, or grandchild, and corresponding step or in-law relationships.

**Independent Contractor** - Independent Contractors are not considered employees of the City. Rather, Independent Contractors are those who work on a contract for services basis and must complete work assignments or responsibilities and receive payment as identified in the contract. No employee benefits are provided to the Independent Contractor.

**Leave Without pay** -Anyapproved time off that is not charged to vacation leave or sick leave.

**Nonexempt Employee** - A nonexempt employee is an employee who, according to the FLSA is entitled to receive at least minimum wage and receive overtime pay or overtime compensatory time after the employee has worked 40 hours in a work week period. Overtime pay is equivalent to one and one-half times the employee's regular hourly pay for each hour over 40 hours worked. Compensatory time off is equivalent to one and one-half times the employee's number of hours worked for each hour over 40 hours worked. The FLSA provides for certain exemptions for employees employed in a bona fide executive, administrative or professional capacity.

**Overtime Pay -** is one-and-one-half times the employee's regular rate of pay for all hours worked in excess of 40 hours in a work week. Overtime calculations do not include vacation, sick or holiday hours**.**

**Regular Full-Time Employee** - An employee who normally works 40 hours a week. Regular full-time employees are eligible for all employee benefits.

**Part-Time Employee** - An employee who normally works less than 40 hours a week.

**Remote Employee** - An employee who performs the majority of their work in a location different from where City of Boulder general operations occur. They may or may not be covered under the provisions of the FLSA, depending on employment status. The specific conditions of the employee’s remote employment will be outlined in an individual employment agreement.

**Seasonal Employee** - A seasonal employee is defined in 2-18-101(24), MCA.

**Short-term Worker** - A short-term worker is defined in 2-18-101(25), MCA

**Sick Leave** - Sick leave is defined in 2-18-601(16), MCA

**Temporary Employee** - is defined in 2-18-101(28), MCA.

**Vacation Leave** - Vacation leave is as defined in 2-18-601(20), MCA.

**Workplace Violence** -Any act or threat of physical violence, harassment, intimidation, or other threatening, disruptive behavior that occurs at the work sit

* 1. **AUTHORITY FOR PERSONNEL ACTION**

The City reserves the right to direct, hire, promote, transfer, assign and retain employees. The City also reserves the right to supervise, discipline, and relieve employees from their duties for any reason determined sufficient by the City; as well as determine and change hours of work, shifts, and operational methods. The policies, practices, rules, and regulations may be established or changed/abolished with the sole discretion of the City. The Mayor will execute personnel actions at its discretion consistent with all applicable laws, regulations and this policy.

* 1. **DIVERSITY & HARASSMENT PREVENTION**

**A. Equal Employment Opportunity Statement**

It is the policy of the City to ensure equal employment opportunity (as defined by the Equal Employment Opportunity Commission (EEOC)) and the Montana Human Rights Act for all employees. The City promotes and affords equal treatment and services to all citizens, employees, and representatives. The City assures equal employment opportunity regardless of race, color, religion, national origin, creed, sex, marital status, veteran/military status, genetic history, political belief, age, or disability, (as defined by the Americans with Disabilities Act and ADA Amendments Act).

If an employee perceives he/she has been discriminated against, he/she should notify the City Clerk or the Mayor.

1. **Americans with Disabilities Act (ADA) and the ADA Amendments Act (ADAAA)**

The City is committed to complying with all applicable provisions of the Americans with Disabilities Act (ADA), the ADA Amendments Act and equivalent state disability laws. It is the City's policy not to discriminate against any qualified employee or applicant with regard to any terms or conditions of employment because of such individual's disability or perceived disability so long as the employee can perform the essential functions of the job with or without a reasonable accommodation. Consistent with this policy of nondiscrimination, the City will provide reasonable accommodations to a qualified individual with a disability, provided that such accommodation does not constitute an undue hardship on the City and/or a direct threat to the health and/or safety of the individual or others.

Employees or applicants who believe they need reasonable accommodation to perform the essential functions of their job should contact their immediate supervisor, the Mayor or the City Clerk to request such an accommodation. The City will conduct an investigation to identify the barriers that make it difficult for the applicant or employee to have an equal opportunity to perform his or her job. The City will then identify possible accommodations, if any, that will help to eliminate the limitation or barrier. If the accommodation is reasonable and will not impose an undue hardship on the City and/or a direct threat to the health and/or safety of the individual or others, the City will make the accommodation. The City may also propose an alternative accommodation. The City is not required to provide the accommodation preferred by the individual, to reallocate essential job functions, or to provide personal use items (i.e., eyeglasses, hearing aids, wheelchairs, etc.)

The City will also make reasonable accommodations for conditions related to pregnancy, childbirth, or related medical conditions, if requested with the advice of the employee's health care provider, as required by law.

#### Harassment Prevention and Reporting

It is the policy of the City that harassment, based on a protected class will not be tolerated. Everyone has a right to work in a professional atmosphere that promotes equal employment opportunities and prohibits unlawful discriminatory practices, including harassment. Therefore, employees are expected to act in a professional, cooperative, and respectful manner to all contacts.

It is the policy of the City to ensure equal employment opportunity without discrimination or harassment on the basis of race, color, religion, national origin, creed, sex, marital status, veteran/military status, genetic history, political belief, age, or disability both in or outside the workplace, on or off shift, in person or via electronic communication such as email, social media, etc.

Any employee who perceives a conversation or event as harassment, whether the employee is involved or merely observing, should explain to the offender in a calm, but firm manner that the action is perceived as inappropriate, and the employee wishes the behavior to stop. Should the behavior continue, the employee should report the activity to their supervisor, the Mayor or the City Clerk.

The City encourages reporting of all perceived incidents of discrimination or harassment. It is the policy of the City to investigate such reports promptly and thoroughly with due regard to confidentiality. The results of the investigation will be communicated to the complainant and the offender. Discipline will follow guidance found in the Discipline Policy.

A follow up review will be completed if harassment allegations have been made to ensure the harassment has discontinued and all parties involved are not subjected to retaliatory behaviors.

***Definitions of Harassment***

*Sexual Harassment:* According to the EEOC and Montana Human Rights Bureau, sexual harassment may include, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical advances of a sexual nature. For example:

* + Occasions when such conduct, either explicitly or implicitly, is a term or condition of employment
	+ Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individuals
	+ Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different gender. Examples may include unwanted sexual advances or requests for sexual favors; sexual jokes or innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess, or sexual deficiencies; gestures; suggestive objects of pictures or other physical, verbal, or visual conduct of a sexual nature.

*Other Harassment:* Harassing behavior based on any other protected characteristic. For example: verbal, written or physical conduct that denigrates or shows hostility or aversion toward another because of his/her race, color, religion, national origin, creed, sex, marital status, genetic history, sexual orientation, political belief, age or disability.

**Retaliation**

### No hardship, no loss or benefit, and no penalty may be imposed on an employee as punishment for:

1. Filing or responding to a bona fide complaint of discrimination or harassment; or,
2. Appearing as a witness in the investigation of a complaint; or
3. Serving as an investigator.

Please report any retaliation to your immediate supervisor, the Mayor or the City Clerk. Any report of retaliatory conduct will be objectively, timely and thoroughly investigated in accordance with the City's investigation procedure. Retaliation or attempted retaliation is a violation of this Policy and anyone who does so will be subject to disciplinary actions, up to and including termination.

* 1. **CONFIDENTIAL INFORMATION/ PERSONAL GAIN**

Employees of the City of Boulder may deal with confidential information. It is imperative that employees maintain City of Boulder integrity and not discuss City of Boulder business with people who should not be privy to the information. In some circumstances, City of Boulder business should be revealed to other City of Boulder employees on a need-to-know basis. If an employee has questions regarding confidential information and to whom the information should be revealed, they should consult with the Mayor or the City Clerk.

Likewise, employees may not use knowledge gained through their employment at the City of Boulder to achieve personal gain for themselves or anyone else. Employees cannot participate as a City of Boulder employee where they may have private pecuniary interest, direct or indirect, or perform in some function requiring discretion on behalf of the City. Employees cannot disclose or use confidential information concerning property or City of Boulder affairs to advance personal or private interest with respect to any contract or transaction that is or may be subject of official action of the City.

* 1. **LAWSUITS AGAINST THE CITY OF BOULDER**

When an employee is approached by a legal process server, they should refer the server to the Mayor or to the City Attorney. Should an authority not be available, and the employee is required to accept served papers, it is the employee's priority to locate and forward the information to either of the authorities listed without opening or reading the documents.

No employee shall discuss aspects of any legal situation that a City of Boulder is subject to or is currently involved in including but not limited to lawsuits or hearings without first consulting the Mayor or City Clerk. or the City Attorney. Likewise, if an employee is approached for a press release or news quote, refer all contacts to the Mayor.

# SAFETY AND HEALTH

#### Safety Policy

The City management is committed to the safety and health of our employees, citizens, visitors, members, and work sites. We are responsible for providing the resources necessary for employees to follow the Montana Safety Culture Act and other safety regulations related to our work. We will strive to set expectations for continual improvement as a safe Montana business.

Employee recommendations to improve safety and health conditions will be given thorough consideration by the City Council and City management. It is the policy of the City that employees report unsafe conditions and must not perform work tasks if the work or work site is considered by them to be unsafe. Employees must immediately report all accidents, injuries, or illnesses, near misses, and unsafe conditions to their supervisor. No such report will result in retaliation, penalty, or other disincentive; however, employees will be held accountable for not reporting such incidents. Management will promote and influence safe behavior by both positive reinforcement of correct and safe work practices, and by disciplinary action for those who willfully or repeatedly work in an unsafe manner.

For this program to be successful, the injured employee must report all injuries to their immediate supervisor on the same day of the incident.

#### Workers Compensation

Workers’ compensation insurance is fully paid by the City and covers all employees. If an employee is injured or becomes ill at the workplace or work site, the employee must ensure it is reported to their immediate supervisor and to the City Clerk on the same day of the injury/illness. Failure to do so may result in a loss of benefits.

#### Return to Work

The City of Boulder believes its employees are its most important asset. The City is committed to assisting our injured employees to return to work as soon as medically appropriate.

There are many ways to implement a Return-to-Work program that meets the needs of both the City and the injured employee. When practical, the focus will be to modify the employee's existing position and/or work schedule temporarily, or to create a position to accommodate the temporary physical restrictions identified by the treating medical provider. If the injury results in permanent restrictions, the City will follow the provisions of the Americans with Disabilities Act.

Please advise your treating medical provider of our Return-to-Work Program so they can help design a temporary transitional duty assignment to allow return to work as soon as possible.

1. **Workplace Violence**

The City is committed to preventing workplace violence and to maintaining a safe work environment. The City has adopted the following guidelines to deal with intimidation, harassment or other threats of or actual violence that may occur onsite or offsite during work­ related activities.

All employees, citizens, vendors, and business associates should always be treated with courtesy and respect. Employees are expected to refrain from fighting, "horseplay" or other conduct that may be dangerous to others.

Conduct that threatens, intimidates, or coerces another employee, citizen; vendor or business associate will not be tolerated. City resources may not be used to threaten, stalk, or harass anyone at or outside the workplace, in person or via electronic communication such as email, social media, etc. The City treats threats coming from an abusive personal relationship as it does other forms of violence.

Indirect or direct threats of violence, incidents of actual violence and suspicious individuals or activities should be reported as soon as possible to a supervisor, the Mayor or the City Clerk. When reporting a threat or incident of violence, the employee should be as specific and detailed as possible. Employees should not place themselves in peril, nor should they attempt to intercede during an incident.

The City will promptly investigate all reports of threats of violence or incidents of actual violence and of suspicious individuals or activities. The identity of the individual making a report will be protected as much as possible. The City will not retaliate against employees making good-faith reports of violence, threats or suspicious individuals or activities. To maintain workplace safety and the integrity of its investigation, the City may suspend employees suspected of workplace violence or threats of violence, either with or without pay, pending investigation.

Anyone found to be responsible for threats of or actual violence or other conduct that is in violation of these guidelines will be subject to disciplinary action up to and including termination of employment.

The City encourages employees to bring their disputes to the attention of their supervisor, the Mayor or the City Clerk or their designee before the situation escalates. The City will not discipline employees for raising such concerns in good faith.

This policy prohibits employees from bringing personal firearms or other weapons (including pepper spray, stun guns, batons, etc.) onto City premises. Employees are also prohibited from carrying firearms or other weapons in City vehicles at any time or in personal vehicles when conducting City business.

This policy does not prohibit employees such as police officers from carrying approved firearms or other weapons on their persons or in vehicles

1. **Intimate Partner *I* Family Violence**

Employees should promptly inform the Mayor or the City Clerk of any protective or restraining order that they have obtained that lists the workplace as a protected area, as well as any safety concerns regarding intimate partner/family violence. The City will not retaliate against employees making good-faith reports. The City is committed to supporting victims of intimate partner/family violence by providing referrals to the City's employee assistance program (EAP) and community resources and providing time off for reasons related to intimate partner violence.

**6. ALCOHOL FREE & DRUG FREE WORKPLACE**

In compliance with the Drug-Free Workplace Act of 1988, (41 USC §§ 701-707), the City is committed to providing an alcohol-free and drug-free workplace. The City prohibits the unlawful manufacture, distribution, sale, possession or use of a controlled substance or alcohol in the workplace or while conducting business. All employees must comply with this policy and notify the Mayor or City Clerk in writing of any drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

The Mayor or City Clerk is responsible for notifying the appropriate federal granting agency of the conviction when the employee involved is working on a federal grant or contract, within ten (10) days of learning of the conviction. Employees who violate this policy may be subject to disciplinary action up to and including termination.

## SMOKING

The City office is a smoke-free office. This includes, but is not limited to, use of regular cigarettes, cigars, pipes, vapor/electronic cigarettes, and any other smoking device. Employees may smoke during scheduled break and meal periods and must smoke in designated smoking areas outside the building. Smoking is prohibited inside all City vehicles.

## HIRING AND SELECTION OF EMPLOYEES

The City's objective is to recruit, select and appoint the best people available for positions within approved budget limits. The hiring supervisor or their designee, will create selection criteria prior to accepting applications for the vacant position. Selection will be on the basis of merit and the principles of equal opportunity will apply.

***Initial Hiring Preferences:***

Per MCA 39-29-102 (Veterans' Public Employment Preference Law) and MCA 39-30-201 (Persons with Disabilities Employment Preference Act), the City shall provide for employment preference in initial hiring, which is defined as “a personnel action for which applications are solicited from outside the ranks of the current regular employees of the City.” Veterans and Disabled Veterans receive a percentage increase when using a scored process. If the selection process is other than a scored procedure, the City shall give preference to a disabled veteran, a person with a disability, a veteran, an eligible relative, and an eligible spouse in that order over any non-preferred applicant holding substantially equal qualifications.

Applicants must claim preference prior to the closing of the announcement, ideally at the time of application.

***Preference Related to Injury of* a *Prior Employee:***

Per 39-71-317, MCA, when an injured worker is capable of returning to work within 2 years from the date of injury and has received a medical release to return to work, the worker must be given a preference over other applicants for a comparable position that becomes vacant if the position is consistent with the worker's physical condition and vocational abilities. This applies only to employment with the employer for whom the employee was working at the time the injury occurred.

1. **NEW EMPLOYEES**

New employees will complete an informal orientation session with the Mayor or the City Clerk. The employee will have the opportunity to complete necessary employment forms required by Federal and State Statutes, as well as payroll and withholding information. The Mayor or the City Clerk will explain in general terms the rules and expectations and provide an overview of the pay and benefit packages offered by the City. The employee will be responsible for reading and following the policies established within the policy manual, to include understanding their employment classification. In addition, new employees will be provided orientation and education specific to the equipment and tasks required of their new position.

All employees will serve a 12-month probationary period. The probationary period allows time for the employee to learn the position as well as time for the supervisor to evaluate an employee's potential and performance. During the established probationary period, the City of Boulder reserves the right to terminate an employee with or without cause.

1. **EMPLOYMENT OF RELATIVES (NEPOTISM)**

No employees will be appointed in a manner inconsistent with the Nepotism laws and definitions as outlined in Title 2, Part 2, Chapter 3, MCA

1. **OUTSIDE EMPLOYMENT**

The City of Boulder should be the primary job for regular full time employees. Should another position interfere in any way with the employees' ability to satisfactorily complete City of Boulder job duties, the employee may receive disciplinary action up to and including termination.

#### REMOTE EMPLOYMENT

In some situations, the City of Boulder may see fit to hire employees who reside in different locations. Remote employment brings with it unique responsibilities and advantages that should not be abused or misused. If a remote employee requires a unique work environment that is deemed unreasonable by the employer or creates a situation which the City determines is not workable, the City may require that the employee work out of the appropriate City facility. If the employee is unable to transition to the designated worksite, the City reserves the right to take other actions as required in accordance with City policies. Specific conditions of remote employment shall be included in the employee's individual employment agreement.

## 13. PERSONNEL FILES

The City maintains records on every employee related to their employment with the City. The employee's personnel file will contain information such as employment application/resume or cover letter, performance evaluations, training records, commendations and awards, disciplinary records, and resignation/termination records. Any information obtained for EEO purposes and/or medical information will be kept in separate, confidential files and accessed only on a need-to-know basis as authorized by the Mayor and *I* or its designee so long as it does not violate any laws, regulations or policies set forth in this manual.

Personnel files are confidential and only accessible to the Mayor or City Clerk or Supervisors on a need-to-know basis for personnel actions. Upon request to the Mayor or City Clerk in their presence, current employees may inspect and make copies of their personnel records. Employees should contact the Mayor or City Clerk to establish a convenient review time.

##  RESIGNATION/TERMINATION

#### Voluntary Resignation/Retirement

Employees who are voluntarily resigning from the City are requested to give a written notice with a minimum of two weeks. Employees will be provided their final paycheck within 15 calendar days or the next scheduled pay period, whichever is sooner. Any outstanding amounts owed to the City will be deducted from the employee's final paycheck.

#### Re-Employment

Depending on the circumstances surrounding the resignation, employees who resign from the City may be eligible for re-employment. Former employees will be required to complete an application/resume and proceed through the regular hiring procedure the same as other applicants. A former employee who is re-hired by the City will be considered a new employee and required to complete the 12-month probationary period. Date of service, for seniority purposes, will be the first day of the subsequent hiring. Subsequent employment and participation in the retirement system will be made in accordance with the rules and regulations of the retirement plan, as well as all applicable federal and state laws.

#### Reduction in Force (RIF)

The Mayor or City Clerk shall have the authority to determine if City workload, funding or other business matters necessitate terminations (via layoff or reductions-in-force [RIF]. Whenever possible, employees will be provided at least two (2) weeks advance notification before the layoff or RIF. Regular employees will not be terminated if temporary or short-term workers are employed in the same position.

The City benefit providers will work in conjunction with the City Clerk and / or their designee to ensure relevant benefits information is forwarded directly to the employee at the last known address.

#### Involuntary Termination

A terminated employee's final paycheck will be issued within 15 calendar days or the next scheduled pay period, whichever is sooner. Any outstanding amounts owed to the City will be deducted from the employee's final paycheck.

Probationary employees may be discharged for any reason that the City deems appropriate within the 12-month probationary period. Termination of a probationary employee may not be appealed through the formal grievance procedure.

Temporary, Short Term, employees may be discharged for any reason that the City deems appropriate. Termination of a temporary, short term or seasonal employee may not be appealed through the formal grievance procedure.

The City will follow the procedure outlined in the Employee Discipline section to terminate a regular, non-probationary employee. An employee terminated for good cause does not retain his/her job or benefits pending any grievance appeal, but if he/she wins the grievance, such salary and benefits will be restored retroactively.

#### 15. PERSONAL APPEARANCE and DEMEANOR

Employees are expected to dress appropriately for their position, their daily activities, and their expected public contact. Employees attending business meetings or other related contact should dress professionally in business attire. The City work environment, though a casual atmosphere, may receive visitors, and all personnel are to be dressed appropriately. Hair and clothes should be neat. Any part of an employee's dress, appearance or hygiene that is deemed unprofessional or that may endanger the employee and/or staff may be prohibited by the Mayor. The Mayor may order an employee to take unpaid time to go home and change if their attire is not considered appropriate.

# SCHEDULE AND BREAKS

#### Work Week/Work Schedule/Over Time

The City's core business hours are from 8:00 a.m. to 4:30 p.m. Monday through Friday. Most employees are expected to adhere to this schedule; however as described herein, Flexible Working Schedules may be considered.

The workweek will begin on Saturday at 12:00 a.m. and end on Friday at 11:59 p.m.

Non-exempt employees working over 40 hours per week will be paid overtime at one and one­ half times their hourly wage rate. If the Mayor and the employee agree, the non-exempt employee may elect to accumulate compensatory time for use as time-off at a future date at a rate of one and one-half times the number of hours worked over the 40-hour work week. Non-exempt employees must receive authorization to work overtime or to accumulate compensatory time hours in writing from their supervisor, prior to working the additional hours. Maximum accruals of compensatory time shall be limited to 80 hours for regular employees. After maximum accrual, overtime compensation shall be paid. Any unused, accrued compensatory time hours will be paid to non-exempt employees upon termination of the employment relationship.

Overtime is based on actual hours worked. Time off for sick leave, vacation leave, holidays or any leave of absence will not be considered hours worked for the purpose of overtime.

#### Meals and Breaks

Paid breaks may be taken, upon agreement between the non-exempt employee and their supervisor.

All employees are expected to take an unpaid lunch period of at least thirty (30) minutes per day. The length of time for a given lunch period will be agreed upon between the employee and their immediate supervisor and should not interfere with the employee's performance or needs of the organization.

An employee may not use a break or meal period to arrive late or depart work early except under occasional, special circumstances, approved by their immediate supervisor.

#### Call Out

 Non-exempt employees who are called out for work after they have completed their normal

 workday, will receive the greater of time actually worked or a two-hour call-out minimum. Non-

 exempt employees will be paid for call-out time at one and one-half times their regular rate of pay.

 In computing work time on call-out, it is defined as the time from when an employee reports to

 his/her workstation until he/she leaves the workstation at the completion of the assigned work.

 (Adopted by City Council 2/22/2022).

1. **TIMESHEETS AND PAYDAY**

#### Attendance

Absence is the failure to report to work and to remain at work as scheduled. It includes late arrivals and early departures as well as absence for the entire day. Regular and punctual attendance is an essential function of every position at the City and required for efficient operations.

The City expects the employee to be reliable and punctual by reporting for work a few minutes prior to the start of your scheduled shift. When you are absent or late, it places a burden on other employees and can impact productivity and service. In the rare instances when you cannot avoid being late or are unable to work as scheduled, be sure to notify your supervisor or your supervisor’s designee as soon as possible so that appropriate arrangements can be made. If you fail to report to work without written approval of your immediate supervisor, it may be considered a voluntary resignation.

Failure to report an absence or tardiness may result in disciplinary action. If the tardiness or absence is unreasonable, it may also result in disciplinary action up to and including termination. If the employee fails to give such notification, the absence may be charged to leave without pay as well as resulting in disciplinary action.

Employees with above average absenteeism may be required to document the reasons, including providing a doctor's certificate or other evidence and verification. Unreasonable and/or excessive absenteeism may result in disciplinary action, up to and including termination.

#### Timesheets

Time sheets for the pay period are to be completed by all employees and submitted to their supervisors by established deadlines. The employee must sign the timesheet attesting to its accuracy. The employee's supervisor will review and sign the time sheets. Electronic signature may occur when appropriate.

#### C. Payday

City employees are paid bi-weekly. The City Clerk will distribute the paychecks to employees unless electronic transmission of payroll is utilized. If the employee desires to release their pay to another authorized person, they shall notify the City Clerk in writing.

#### Garnishments

#### It is the policy of the City to enforce all wage garnishments as may be required by state and federal law.

#### VACATION LEAVE

***Accrual of Vacation Leave (2-18-611, MCA)***

Each permanent full-time employee, shall earn annual vacation leave credits from the first day of employment. Vacation leave credits earned will be credited at the end of each pay period. However, employees are not entitled to any vacation leave with pay until they have been continuously employed for a period of 6 calendar months.

Seasonal employees will earn vacation credits. However, season employees must be employed for 6 qualifying months before they may use the vacation credits. In order to qualify, seasonal employees shall immediately report back for work when operations resume in order to avoid a break in service.

Permanent part-time employees are entitled to prorated annual vacation benefits if they have worked the qualifying period.

An employee may not accrue annual vacation leave credits while in a leave-without pay status.

Temporary employees earn vacation leave credits but may not use the credits until after working for 6 qualifying months.

A short-term worker or a student intern, (as defined in 2-18-601 MCA), may not earn vacation leave credits, and time worked as a short-term worker or as a student intern does not apply toward the person’s rate of earning vacation leave credits.

**Rate earned**: (***6-18-612, MCA***)

Vacation leave credits are earned at a yearly rate calculated in accordance with the following schedule, which applies to the total years of an employee’s employment with the City, whether the employment is continuous or not:

For employees hired **prior** to adoption of this Employee Personnel Manual, vacation shall accrue as follows:

1 day through 9 years 15 days

10 years through 14 years 18 days

15 years through 19 years 21 days

20+ years 24 days

For employees hired **after** the date of adoption of this Employee Personnel Manual, vacation shall accrue as follows:

|  |  |
| --- | --- |
| **YEARS OF EMPLOYMENT** | **WORKING DAYS CREDIT (per year)** |
| 1 day through 10 years | 15 |
| 10 years through 15 years | 18 |
| 15 years through 20 years | 21 |
| 20 years or more | 24 |

**(*2-18-617, MCA):*** Annual vacation leave may be accumulated to a total not to exceed two times the maximum number of days earned annually as of the end of the first pay period of the next calendar year. Excess vacation time is not forfeited if taken within 90 calendar days from the last day of the calendar year in which the excess was accrued. The City will provide reasonable opportunity for an employee to use rather than forfeit accumulated vacation leave. If an employee makes a reasonable written request to use excess vacation leave before the excess vacation leave must be forfeited, and the City denies the request, the excess vacation leave is not forfeited and the City shall ensure that the employee may use the excess vacation leave before the end of the calendar year in which the leave would have been forfeited.

Upon termination of employment with the City, any employee who has worked the qualifying period of six months will be paid for unused vacation leave credits at the rate of pay in effect at the time of termination.

***Requesting Leave***

Requests for vacation leave must be submitted in advance in writing and pre-approved in writing by the employee's supervisor or the Mayor. The vacation leave will be approved after considering the best interest of the City, the employee's unit, and the employee's request. Employees who need to use vacation leave due to extenuating circumstances before they finish the qualifying period may ask their supervisor or the Mayor to grant paid vacation leave with the understanding that their leave balance will be affected if their employment is terminated before completing the qualifying period. If there are conflicting requests for the same period of vacation leave, their supervisor, or the Mayor has discretion regarding the approval of the leave request.

An employee, who has passed the six-month qualifying period and has separated from the service of the City of Boulder for any reason, shall be entitled upon termination to cash compensation pay-out for unused vacation leave. The payout will be based upon the employee's salary at time of termination.

1. **SICK LEAVE**

***Accrual of Sick Leave: (2-18-618, MCA)***

A permanent full-time employee earns sick leave credits from the first day of employment. For calculating sick leave credits, 2080 hours (52 weeks x 40 hours) equals 1 year. Sick leave credits must be credited at the end of each pay period. Sick leave credits are earned at 12 working days for each year of service without restriction as to the number of working days that may be accumulated. Employees are not entitled to be paid sick leave until they have been continuously employed 90 days.

An employee may not accrue sick leave credits while in a leave-without-pay status. Permanent part-time employees are entitled to prorated leave benefits if they have worked the qualifying period. Full-time temporary and seasonal employees are entitled to sick leave benefits provided they work the qualifying period. A short-term worker may not earn sick leave credits.

Except as otherwise provided in 2-18-1311, MCA or subsection (6)(c) of this section, an employee who terminates employment with the city is entitled to a lump-sum payment equal to one-fourth of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave must be computed on the basis of the employee’s salary or wage at the time the employee terminates employment with the city.

For an employee who dies from an accident while on the job, any sick leave benefits will be paid out as a death benefit at 100% of the accumulated value of the sick leave to the employee’s beneficiary or estate.

Abuse of sick leave is cause for dismissal and forfeiture of the lump-sum payments provided for in this section.

***Requesting and Reporting Sick Leave***

All requests to use sick leave for purposes of medical appointments should be made to the immediate supervisor with as much advance notice as possible, and an Employee Leave Request form must be submitted to the City Clerk prior to the end of the pay period the leave is being taken

(See Section 17 (A), Timesheets and Payday, Attendance for procedures for notification of absence.

***Use of Sick Leave:***

Employees may use sick leave for purposes consistent with the definition of sick leave contained in 2-18-601 (15), MCA:

 “Sick Leave” means a leave of absence with pay for:

1. a sickness suffered by an employee or a member of the employee’s immediate family; or
2. the time that an employee is unable to perform job duties because of:
	1. a physical or mental illness, injury, or disability;
	2. maternity or pregnancy-related disability or treatment, including prenatal care, birth, or medical care for the employee or the employee’s child;
	3. parental leave for a permanent employee as provided in 2-18-606;
	4. quarantine resulting from exposure to a contagious disease;
	5. examination or treatment by a licensed health care provider;
	6. short-term attendance, in an agency’s discretion, to care for a relative or household member not covered by subsection (16)(a) until other care can reasonably be obtained;
	7. necessary care for a spouse, child, or parent with a serious health condition, as defined in the Family and Medical Leave Act of 1993; or
	8. death or funeral attendance of an immediate family member or, at an agency’s discretion, another person.

Sick leave utilized must not exceed the amount accrued by the employee. If the sick leave balance is exhausted, an employee may choose to use their accrued vacation leave or leave without pay (with written approval from the Mayor). The City may not require an employee to use vacation leave for purposes of illness unless the employee agrees per 2-18-615, MCA.

Employees using sick leave that exceeds three consecutive workdays may be asked to furnish a certification of illness from a qualified medical provider upon request of their supervisor or the Mayor.

At the City's request and expense, an employee may be subject to an examination by a qualified medical provider following a sick leave or other absence occasioned by illness or injury to ensure the employee can complete the necessary functions of the position. Abuse of sick leave may result in disciplinary action up to and including termination***.***

***Transfer of Sick Leave/Sick Leave Donation:***

Employees may transfer sick leave to another employee. The receiving employee must have exhausted all of their accrued sick leave and vacation leave. The contributing employee must make the transfer request in writing and must maintain at least 40 hours of sick leave. The transferred sick leave will not change the receiving employee's employment status.

Hours transferred are on an hour-per-hour basis and not calculated on the donating employees' wages. The transferred sick leave is considered forfeited by the contributing employee. Employees shall not be coerced, intimidated, or adversely persuaded to transfer their accrued sick leave to the receiving employee.

## LEAVE WITHOUT PAY

#### General Use

Leave without pay (LWOP) may be approved by the Mayor. LWOP is usually requested when an employee has exhausted all applicable leave balances. The Mayor may require an employee to use all appropriate accrued leave or compensatory time before approving LWOP. However, an employee cannot be required to exhaust vacation leave balances for reasons of illness unless the employee agrees per 2-18-615, MCA.

Depending upon the circumstances, employees still in their probationary period may be allowed to take LWOP. However, if leave is granted, their probationary period may be extended by the amount of LWOP taken.

Vacation and sick leave will not accrue during LWOP.

Providing false or misleading information or reasons to justify leave-without-pay may result in disciplinary action up to and including termination.

LWOP is at the sole discretion of the Mayor and is not subject to the Grievance procedure.

#### Non FMLA Related Extended LWOP

Extended LWOP is considered unpaid leave in excess of two (2) consecutive weeks. Extended LWOP may be granted for any cause as determined at the Mayor’s sole discretion if it doesn't violate any laws, regulations, or city policies. Employees may be granted Extended LWOP for a specified time generally not to exceed one hundred eighty (180) calendar days during their employment period.

Whenever possible, the employee should provide the Mayor with at least 30 days' notice so workloads/tasks can be covered. To request Extended LWOP, employees must provide the Mayor the beginning and ending dates of the leave and the reason for the requested leave.

Vacation and sick leave cease to accrue during Extended LWOP. Any employee who has two consecutive pay periods with less than eighty (80) hours of paid time per pay period, due to LWOP, will lose the employer contribution and lose eligibility for benefits starting the beginning of the third pay period, assuming the employee does not return to work at that time. At that time, coverage will be cancelled, and the employee will be offered COBRA as an option to extend coverage. Should coverage be canceled, the employee may be subject to plan and/or policy restrictions, upon returning to work. Plan documents can be requested from the Mayor or City Clerk.

An employee who fails to return to work on their regularly scheduled workday after the pre-approved Extended LWOP period will be considered to have voluntarily resigned unless the leave period is extended, in advance, by their supervisor or their designee.

## HOLIDAYS

***Schedule***

The City observes the same holidays as recognized by the State of Montana, ***(1-1-216, MCA)***, plus two additional days.

* New Year's Day, January 1
* Martin Luther King Jr. Day, the third Monday in January
* Lincoln’s and Washington’s Birthdays, the third Monday in February
* Memorial Day, the last Monday in May
* Independence Day, July 4
* Labor Day, the first Monday in September
* Columbus Day, the second Monday in October
* State general election day, first Tuesday in November during Congressional/Gubernatorial Election years
* Veterans' Day, November 11
* Thanksgiving Day, the fourth Thursday in November
* Christmas Day, December 25

***Additional Days:***

* Day after Thanksgiving Day, the fourth Friday in November
* Christmas Eve, December 24

If a holiday falls on a Saturday, the Friday preceding is observed as a holiday. If a holiday falls on a Sunday, the following Monday is observed as the holiday. If Christmas Eve and Christmas day fall on a Friday and Saturday respectively, the following Monday will be observed as the holiday.

***Eligibility***

To be eligible for holiday benefits, an employee must be in a paid status the last regularly scheduled working day before the holiday and the first regularly scheduled working day following the holiday. If, however, the observed holiday falls on the employee's regularly scheduled day off, the employee must be in a paid status on the last regularly scheduled working day immediately before or the first regularly scheduled working day immediately after the holiday.

Example: Holiday is a Friday. An employee must be in a paid status (work, sick leave or vacation leave) on both Thursday AND Monday to earn the Holiday Pay. If Monday is the employee's normal day off, then they must be in a paid status on Thursday AND Tuesday.

***Accrual***

Regular and Temporary Full-Time employees earn eight hours per Holiday. Regular part-time and seasonal employees will earn pro-rata holiday based on the employee's hours worked during the pay period of the holiday. Short Term Workers do not earn Holiday pay.

***Use of Leave***

If one or more regular holidays fall in the period of an employee's vacation leave, the vacation leave record will be credited for the holiday.

Per Section 2-18-603, MCA. Holidays -- observance when falling on employee's day off. (1) (a) A full-time employee who is scheduled for a day off on a day that is observed as a legal holiday, except Sundays, is entitled to receive a day off with pay either on the day preceding the holiday or on another day following the holiday in the same pay period or as scheduled by the employee and the employee's supervisor, whichever allows a day off in addition to the employee's regularly scheduled days off, provided the employee is in a pay status on the employee's last regularly scheduled working day immediately before the holiday or on the employee's first regularly scheduled working day immediately after the holiday.

Part-time employees receive pay for the holiday on a prorated basis according to rules adopted by the department of administration or appropriate administrative officer under 2-18- 604.

A short-term worker may not receive holiday pay.

***Work on* a *Holiday***

An employee who is designated as non-exempt and who is required by management to work on a holiday shall receive one and one-half times the regular rate for the hours actually worked on the holiday AND receive holiday benefit hours paid at the regular rate.

Exempt employees required by management to work on a day a holiday is observed shall be granted another day off within the same pay period.

## JURY DUTY- service as witness, *(2-18-619, MCA)*

Each employee who is under proper summons as a juror shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Juror fees must be applied against the amount due the employee from the employer. However, if an employee elects to use annual leave to serve on a jury, the employee may not be required to remit the juror fees to the employer. An employee is not required to remit to the employer any expense or mileage allowance paid by the court.

An employee subpoenaed to serve as a witness shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Witness fees must be applied against the amount due the employee from the employer. However, if an employee elects to use annual leave to serve as a witness, the employee may not be required to remit the witness fees to the employer. An employee is not required to remit to the employer any expense or mileage allowances paid by the court.

Employers may request the court to excuse their employees from jury duty if they are needed for the proper operation of a unit of state or local government.

## PUBLIC OFFICE LEAVE, *(39-2-104, MCA)*

Employees elected or appointed to a public office in the city, county, or state shall be granted an unpaid leave of absence, not to exceed 180 days per year while performing the public service. Employees of an employer who employs 10 or more persons must, upon complying with the requirements of subsection (2), be restored to their positions, with the same seniority, status, compensation, hours, locality, and benefits as existed immediately prior to their leaves of absence for public service.

(2) An employee granted a leave of absence shall make arrangements to return to work within 10 days following the completion of the service for which the leave was granted unless they are unable to do so because of illness or disabling injury that has been certified by a licensed physician.

(3) Unemployment benefits paid to a person by application of this section may not be charged against an employer under the unemployment insurance law. The City will comply with all relevant restrictions and guidelines provided within the Hatch Act (5 U.S.C. 7321 through 7326, as amended).

## MILITARY LEAVE, *(10-1-1009, MCA)*

An employee of the City of Boulder, who is a member of the national guard of Montana or any other state or who is a member of the organized or unorganized reserve corps or military forces of the United States and who has been an employee for a period of at least 6 months will be given leave of absence with pay at a rate of 120 hours in a calendar year or academic year if applicable, for performing military service. The full 120 hours of leave will be credited in full to an employee after 6 months of employment and in each successive calendar year, or academic year if applicable.

No military leave will be charged against the employee’s annual vacation time.

Any unused military leave will be carried over to the next calendar year, or academic year if applicable, but may not exceed a total of 240 hours in any calendar or academic year.

## BEREAVEMENT LEAVE

In case of a death in the immediate family, an employee will be granted three days of Bereavement Leave that will not be charged to the employee's accumulated sick leave or vacation leave. If additional time is required, an employee may be allowed additional days for bereavement purposes by use of sick leave or vacation leave, with the Mayor’s approval.

## The Mayor may approve one (1) day of Bereavement Leave in the case of a death of a person outside of the immediate family, or another person. Bereavement Leave will not be charged to an employee's sick or vacation leave. If additional time is required, an employee may use vacation leave.

## 26. MATERNITY/PARENTAL LEAVE (49-2-310, 311, MCA)

## The City grants a maternity/parental leave of absence to female employees for a reasonable length of time after the birth or adoption of a child, which is determined weighing the needs of the City and the employee. “Reasonable” in the case of a normal pregnancy and delivery is deemed to be six (6) calendar weeks, and this period of leave will be granted after the birth of a child, if requested. An employee is not required to obtain medical certification for this initial six (6) calendar weeks of leave following the birth of a child. Accrued sick leave, donated sick leave, annual leave, compensatory time, (if applicable), and leave-without-pay may be used for this six (6) week period of leave.

## Employees may use accrued leave in order to receive compensation during the maternity leave. Additional time off is unpaid leave.

## Prior to departure, the employee must signify their intent to return to work at the end of their leave. If the employee has so indicated, the employee will be reinstated to their original position or to an equivalent position with equivalent pay, seniority, and benefits, unless the City’s circumstances have so changed as to make it impossible or unreasonable to do so.

## If the employee is in an unpaid leave status during the maternity/parental leave, the employee will accrue no benefits.

## 27. PARENTAL LEAVE, (2-18-606, MCA)

## Parental leave is available for birth fathers or for employees who are adopting a child immediately following a child’s birth or placement. Classified employees in their probationary period are not eligible for parental leave.

## Fathers and adopting employees are entitled to a leave of absence of fifteen (15) working days following the birth of a child or placement of an adopted child. Employees may use sick leave for the initial fifteen (15) days.

## BREASTFEEDING IN THE WORKPLACE, *(39-2-215, 29-2-216, 39-2-217, MCA)*

The City supports and encourages the practice of breastfeeding, accommodating the breastfeeding-related needs of employees, and will provide employees with adequate facilities for breastfeeding or the expression of milk for their child(ren). The selection of the space will be made on a case-by-case basis in consultation with the employee.

The City will provide reasonable unpaid break time each day to an employee who needs to express breast milk. Additionally, the City will make every effort to provide suitable facilities for milk storage during the employee’s daily work period.

## 29. PERFORMANCE MANAGEMENT AND EVALUATIONS

Supervisors will continuously monitor an employee’s job performance, including the identification of opportunities for improvement and the acknowledgement of superior work. The goal is for each supervisor to provide the employee a written summary outlining their yearly progress that allows for correction of any deficiencies, recognizes employee’s strengths and special abilities, as well as provides an opportunity to discuss areas that need improvement.

## PROGRESSIVE DISCIPLINE POLICY

Employees are required to adhere to City policies and procedures and perform their job in a manner that is consistent with the Code of Ethics, City Policies and Procedures and accepted professional and personal standards of behavior for a public workplace. Employees are expected to perform their work in a manner that ensures public confidence in the functions of the City, and which complies with local, state, and federal law. Employees who have completed their initial employment period and are no longer serving a probationary period are subject to cause for a discharge.

***EMPLOYEE MISCONDUCT***

Disciplinary action may be taken in cases of employee misconduct. Employee misconduct means, but is not limited to, violation of City policies or procedures, willful neglect of an employee's duty, insubordination, disruptive behavior, and any conduct on the job not in keeping with generally accepted professional and personal standards of behavior associated with employment, as well as other activities that might adversely affect the confidence of the public, and violations of federal and*/*or state law.

Reasons for disciplinary action may include, but are not limited to:

* Violations of any policy in this Handbook including violation of the City's established Policies and Procedures;
* Violating job-related federal, state, and/or local laws;
* Commission of a felony or misdemeanor;
* Dishonesty, including but not limited to giving false information, falsifying time records for payroll, falsifying other records, or making false statements when applying for employment;
* Unsatisfactory job performance;
* Unsafe work practices, failure to follow safety policies, or both;
* Disrespect to the public or fellow employees;
* Being habitually absent or tardy for any reason, or being wasteful of material, property or working time;
* Failing to follow the orders of your supervisor(s);
* Inability to get along with fellow employees and the public;
* Misuse or destruction of City or other employee's property;
* Being on City premises not open to the general public during non-working hours without authorization;
* Abuse of sick leave;
* Any other conduct on the job not in keeping with acceptable standards of behavior generally associated with employment.

***DISCIPLINARY PROCEDURES***

The City determines the appropriateness of using progressive discipline on a case-by-case basis. In general, progressive discipline includes five (5) separate and distinct actions:

1. Written Reprimand

2. Disciplinary Probation

3. Suspension

4. Demotion

5. Termination

Progressive discipline is cumulative in nature. The City may, in its sole discretion, use the level of discipline it deems appropriate based on the facts and circumstances of an employee's unsatisfactory performance or misconduct. Any and*/*or all of the first five (5) disciplinary actions may be combined and/or omitted. In the instance that performance is not corrected through disciplinary action, employees may be subject to more severe disciplinary actions, at the discretion of the City, such as a last chance agreement and*/*or termination of employment. All notices and records of disciplinary action will be signed by the employee and placed in the personnel file. If an employee refuses to sign the disciplinary documents, a witness will sign noting that the employee was given a copy of the materials and refused to sign.

***DISCIPLINARY NOTIFICATION***

Employees will receive a copy of the information being placed in his/her personnel file related to disciplinary action.

**31. GRIEVANCE PROCEDURE - Grievance for Non-Discharge Employment Action:**

It is the policy of the City to maintain grievance procedures to resolve claims resulting from employment actions. Grievances must follow the grievance procedures detailed below:

A "grievance" shall mean a complaint, protest, or objection by an employee with respect to the conditions of employment or the interpretation, meaning, or application of the Personnel Policy or other established departmental policies or operating manual.

Employees shall follow the grievance procedure to resolve any grievance they may have.

Employees are allowed to use the grievance procedure without penalty, harassment, or retaliation for doing so. Each grievance will be fully processed until the employee receives a satisfactory decision/explanation or until the employee's right of appeal is exhausted.

Employees are encouraged to discuss disputes with their supervisors informally and in a timely fashion.

Days are defined as working days not including holidays.

**Step 1** - If an employee feels that he*/*she has a grievance or complaint, he/she must discuss the complaint with his*/*her immediate supervisor within five (5) working days of the alleged incident. If the grievance is of a potentially or particularly volatile or sensitive nature, either party may elect to include a neutral third party in discussions. This third party should be agreed upon by both parties. If agreement can't be reached, the third party will be assigned by the City Clerk.

The immediate supervisor shall in cooperation with the City Clerk, respond to the grievance in writing within five (5) working days.

Upon receipt of the supervisor's response, the employee will have five (5) working days to accept or reject the response. If the employee accepts the response, the grievance procedure ceases, and any recommended actions are taken to address the issue.

If the employee disagrees with the response and finding, the employee must within that five (5) working day period submit a written grievance to Step 2.

**Step 2** - In the event the grievance is not resolved at Step 1, the employee may submit the grievance in writing to the Mayor for his or her review and determination. In the case the Mayor is the immediate supervisor, employees will be directed to Step 3. Once a Step 2 grievance is filed, the Mayor must in cooperation with the City Clerk, respond to the employee grievance within seven *(*7) working days.

Once the employee receives the Mayor’s response, he*/*she will have five (5) working days to accept or reject the Mayor’s decision. If the employee accepts the Mayor’s decision, the grievance procedure is concluded.

If the employee disagrees with the Mayor’s decision, they may proceed to Step 3.

**Step 3** - If the grievance is not resolved at step 2, and the employee wishes to pursue the grievance further, the employee must forward the grievance in writing, along with the findings from Step 1. and Step 2. to the City Council via its President for a final determination.

Employees must file the Step 3 grievance within five (5) working days of receipt of the Mayor’s response.

The City Council in cooperation with the Mayor, will make a decision and prepare a written response within twenty (20) working days of receipt of the grievance. The decision of the City Council is the last step in this procedure and will be considered as fulfilling the City's obligation regarding the consideration of employee grievances.

If at any time during the process the grievant fails to follow the stated procedures and time frames, the grievance will be resolved on behalf of the City. With the mutual agreement of both parties, this provision can be waived, and/or the time frames extended.

If at any time the City is late in responding and has not reached agreement with the grievant for an extension, the grievant may proceed through the process to the next step.

Questions or requests for additional guidance concerning grievance procedures or processes should be directed to the City Clerk.

**Non-Probationary Terminated Employee Discharge Appeal Procedure**, (***39-2-911(3), MCA)***

If a non-probationary employee feels they were wrongfully terminated from the employment of the City, the employee must submit the grievance, in writing, to the Mayor at: 304 N. Main St., Boulder, MT 59632 within ten (10) working days of their receipt of this Discharge Appeal Procedure. The employee shall explain the nature of the problem, the specific reasons for the employee’s dissatisfaction, and the employee’s desired solution. In addition, the employee must submit a list of the names of the person(s) who have knowledge about the grievance, what information these people hold, and copies of any relevant documents. The response will be provided to the employee in writing within twenty (20) working days after receipt of the written grievance. The Mayor’s decision is the final step of the grievance process.

A copy of this Discharge Appeal Procedure will be provided to a non-probationary terminated employee to the employee’s last-known postal mailing address, or to the employee’s last-known electronic mailing address, or the employee’s attorney, within fourteen (14) days of the employee’s departure.

1. **TELEPHONE USE**

#### General Use

While at work, employees should limit personal phone use to emergencies and absolutely essential personal business, which shall not interfere with employee productivity and shall not be distracting to others. Time spent on personal calls shall be made up after hours or on lunch breaks.

#### Company Issued Cell Phone Use

The City of Boulder may decide to issue cell phones to employees. Employees who are issued a phone understand they are issued primarily for business use. Because the phones have unlimited minutes, they may be used for legal personal use.

All phone records are subject to City review and any illegal use of the phone, whether for City or personal business is subject to disciplinary action. If a City issued phone is subpoenaed, all content including messages, search history, and other personal information could potentially be accessed.

## COMPUTER USE

Use of the City's electronic communications equipment, systems and/or tools is a privilege. Electronic communications equipment should be used for activities that fall within the course and scope of the employee's job duties. Personal computer use that is deemed excessive or inappropriate by the City of Boulder or computer use that is illegal is prohibited and may result in disciplinary action.

New employees will be given a period of instruction on the City's computer equipment.

***Email***

Employees are responsible for the content and dissemination of their messages. This responsibility includes ensuring that their messages are accurate, courteous and that they do not violate another's right to privacy or confidentiality. If an employee has a question pertaining to the content of an email, they should consult with their supervisor. All emails that pertain to City business must be retained.

***Security***

The City of Boulder owns the contents of all files stored on its systems, (including phones), and all messages transmitted over its systems and reserves the right to access them. E-mails may be accessed and monitored in the normal course of business by system administrators and supervisors. The City expressly reserves the right to monitor Internet use.

## TRAVEL FOR WORK

City of Boulder employees may be required to travel. When working away from Boulder, they are required to periodically check in with the City office to provide status reports and to check for messages.

Occasionally it may be necessary to contact the traveling employee. The employee will leave an itinerary with the City office.

## TRAVEL AND EXPENSE REIMBURSEMENT

All employee travel shall be pre-approved by the Mayor. If driving for City business, an employee must have a Montana driver's license with the appropriate endorsements.

Employees conducting City business shall be compensated for travel expenses, consistent with State per diem rates and policies. If meals are included in tuition, registration fees, or hotel charges, or if only a fraction of the day is authorized for travel, the per diem or expense allowance shall be reduced accordingly.

Employees may use a City of Boulder vehicle when traveling. If a City of Boulder vehicle is not available, employees may use their own vehicle and receive a mileage reimbursement. When employees use their own vehicle for City of Boulder business, they are required to provide proof of liability insurance coverage.

Employees may request an expense advance. Expenses may also be paid in advance using a City credit card. The city clerk shall reconcile the balances that are owed to the employee or to the City after the travel.

The employee must provide an itemized expense report with attached receipts documenting their expenditures. If the travel advance exceeds the receipts, the employee must reimburse the City of Boulder the difference.

***Use of City of Boulder Vehicles***

The City of Boulder shall determine which positions require regular take-home use of a City vehicle. All City vehicles are to be used for City business purposes. If possible, vehicles are to be available and shared among all employees when needed. Employees using a City vehicle are required to keep a mileage and maintenance log.

Employees using a City vehicle must observe and obey traffic regulations and take good care of the vehicle. Employees and other passengers are required to wear seat belts at all times. Smoking is prohibited in all City vehicles. When the vehicle is left unattended, the employee must secure the vehicle by rolling-up all windows and locking all doors. Employees are required to return the vehicle fully ready for use.

Employees should report unsafe vehicle conditions or conditions in need of repair to the Public Works Director or Mayor.

***Vehicle Accidents***

When an employee is involved in a motor vehicle accident with a City vehicle, the employee must notify their supervisor, the City Clerk or Mayor immediately. The employee should detail, in writing, the accident and situations leading up to the accident. Law enforcement should be contacted to complete an investigation of the accident. Employees must cooperate with and are permitted to discuss the incident with emergency services personnel, the Mayor or their designee, insurance adjusters and law enforcement.

On return to the City office, an account of the accident should be provided in writing to their supervisor, Mayor, the City Clerk, The employee may also be asked to assist with completing the necessary forms for insurance claims. The supervisor or Mayor shall conduct an investigation of the facts and situations of the accident to determine if disciplinary measures up to and including termination are warranted. Accidents where the City employee was driving or operating machinery under the influence of alcohol or illegal drugs may result in discipline.

1. **EDUCATION AND TRAINING**

The City of Boulder encourages training for employees where the training improves employee productivity, knowledge, and skills. The City may provide full or partial funding for training that is a work-related program, seminar, conference, convention, etc., and is pre-approved by the employee's supervisor and the Mayor.

Employees should consider their training needs during the annual budget development, particularly if the training requires extensive time away from work, is of significant cost, and/or requires out-of-state travel.

1. **PARTICIPATION IN COMMUNITY ORGANIZATIONS**

The City of Boulder views service in community organizations, the Boulder Fire Department, and the Boulder Ambulance Department as beneficial to the employee and as positive public relations for the City. Employees should consult with their supervisor and the Mayor before volunteering if work time may be required. Employees who have received pre-authorization from their supervisor or the Mayor, may attend such functions or participate in emergency calls, as excused, paid absence without using vacation leave.

A city employee who is a member of the Boulder Ambulance Department (also a City Department), will receive their regular rate of City pay when responding to calls during regular working hours. When responding to calls outside of regular business hours, the employee will be compensated at Boulder Ambulance Department rates, and those hours will not count toward overtime pay nor will they accrue sick/vacation leave benefits.

The employee's supervisor and the Mayor will consider and evaluate the employee’s ongoing participation.

1. **PARTICIPATION IN PROFESSIONAL ORGANIZATIONS**

The City of Boulder views personal development through professional organizations as essential to keep abreast of changing laws, rules, and legal opinions as well as maintaining a network of professional colleagues which are beneficial for research, feedback, and productive information. Professional contacts are also beneficial for the growth and image of the City.

Employees are encouraged to pursue relevant professional organization affiliations. Employees should consult with the Mayor if work time may be required. Employees who have received pre­ authorization from their supervisor and the Mayor may attend such functions as excused, paid absence without using vacation leave. The employee's supervisor and the Mayor will consider and evaluate the employee’s ongoing participation.

## LICENSING FEES

The City will pay for the initial and renewal costs of required professional license/certifications. Cost should be identified at the time of the annual budget submission.

## RETIREMENT

Retirement benefits are provided through the Public Employees Retirement System of the State of Montana. Contact the Public Employees Retirement Administration for information.

1. **SALES CALLS AND FUNDRAISING EFFORTS**

Professional sales calls are allowed providing they are done in a consistent and fair manner. Employees requesting charitable contributions or selling products on their own time. Employees may also choose to circulate a catalog among co-workers to preview on their own time. Employees should not be made to feel obligated to participate.

***Adopted: December 20, 2021, excluding the Call-Out section***

***Adopted: Call-Out section February 22, 2022***