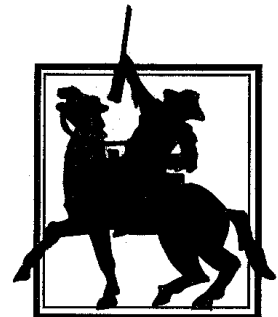


# City of Cody

## Personnel and Policy Manual

*The mission of the City of Cody is to enhance the quality of life for the community and its visitors by providing reliable, friendly, cost-effective services that respond to changing needs.*



CITY OF CODY  
WYOMING

**PROBATIONARY PERIOD**

All new, promoted and rehired employees, with the exception of sworn police department employees, work on a probationary “**at will**” basis for the first 180 calendar days (6 months) after their date of hire. For sworn police department employees, the probationary “**at will**” period will be for one year as per Wyoming State Statute 9-1-704(d). All seasonal, provisional and temporary employees are “at will” employees for the duration of their employment and may be terminated with or without cause or advance notice and without the right to appeal.

**Either the employee or the City may end the employment relationship at any time during the probationary period for all newly hired employees, with or without cause or advance notice and without the right to appeal. The employee is an “at will” employee during the probationary period, and may be terminated at any time.**

Upon completion of the initial probationary period, employees enter the “regular” employment classification.

This document does not create a contract, either expressed or implied. The City of Cody may change the policies and/or procedures at any time, without notice.

**ACKNOWLEDGEMENT OF PROBATIONARY OR “AT WILL” EMPLOYMENT STATUS**

I have read and understand the terms of my employment as either

- 1. \_\_\_\_\_”at will” employee, or
- 2. \_\_\_\_\_an employee under a Probationary Period and agree to abide by these terms.

I understand that I am an “at will” employee during this period. The start date of my Probationary Period is \_\_\_\_\_.

\_\_\_\_\_  
Employee’s Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee’s Name Printed

\_\_\_\_\_  
Authorized City of Cody Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name**ACKNOWLEDGEMENT OF “AT WILL” EMPLOYMENT STATUS FOR PROVISIONAL AND TEMPORARY EMPLOYEES**

I UNDERSTAND THAT THE POSITION FOR WHICH I HAVE BEEN HIRED BY THE CITY OF CODY IS AN "AT-WILL" POSITION. EITHER THE CITY OF CODY OR THE EMPLOYEE MAY TERMINATE THE EMPLOYMENT AT ANY TIME WITH OR WITHOUT CAUSE, WITHOUT NOTICE AND WITHOUT ANY RIGHT TO APPEAL. THE CITY OF CODY PERSONNEL EMPLOYEE MANUAL DOES NOT CREATE AN EMPLOYMENT CONTRACT, AND NO STATEMENTS OR ASSURANCES BY CITY EMPLOYEES SHALL CHANGE THE-AT WILL STATUS OF THIS POSITION. THE CITY OF CODY RESERVES THE RIGHT TO ALTER OR MODIFY THE PERSONNEL MANUAL AT ANY TIME.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Name Printed

\_\_\_\_\_  
City Administrator    Date

\_\_\_\_\_

\_\_\_\_\_  
Printed Name

# City of Cody Personnel and Policy Manual

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**EMPLOYEE ACKNOWLEDGMENT FORM**

This employee manual describes important information about the City of Cody, and I understand that I should consult my Department Head or Supervisor regarding any questions not answered herein.

Since the information, policies, and benefits described here are necessarily subject to change, I acknowledge that revisions to the manual may occur. I understand the policies will be reviewed and revised on a regular and ongoing basis. All such revisions will be communicated through official notices, and I understand that revised information may supersede, modify, or eliminate existing policies. Only the Governing Body has the ability to adopt any revisions to the policies in this handbook. However, the City Administrator, Department Heads or Supervisors may issue written or oral procedures, practices and policies to further clarify the policies or duties and responsibilities of employees and the City of Cody.

I have been provided access to the manual, and I understand that it is my responsibility to read and comply with the policies contained in this manual and any revisions made to it. I understand a copy of this signed acknowledgment will be placed in my permanent personnel file.

With the exception of individual department manuals, these provisions supersede all existing policies and practices and may not be amended or added to without the approval of the Governing Body. In the event of any conflict between this City of Cody Personnel Manual and a department manual, this City manual will prevail.

\_\_\_\_\_  
EMPLOYEE'S SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
EMPLOYEE'S NAME (TYPED OR PRINTED)

## SECTION 1: INTRODUCTION

This handbook is designed to acquaint you with the City of Cody and provide you with information about working conditions, employee benefits and the policies affecting your employment. **It is each employee's responsibility to read, understand, and comply with all provisions of this handbook.** It describes many of the benefits and responsibilities of employees as well as the employer. One of the City's objectives is to provide a work environment that is conducive to both personal and professional growth.

No employee handbook can anticipate every circumstance or question about policy. As the City continues to grow, the need may arise and the City reserves the right to revise, supplement, or rescind any policies or portions of the handbook from time to time as it deems appropriate, in its sole and absolute discretion. Employees will be notified of such changes to the handbook as they occur.

These policies were established to conform and be complementary to the City of Cody Municipal Code and the State of Wyoming Statutes. In cases where there is deemed to be a conflict between a policy and the Municipal Code or State Statute, the Code and Statute shall prevail.

The policies may be amended from time to time. However, in order to be effective, the amendment must be in writing and approved by the Governing Body. The policies contained within this manual apply to all regular full and part-time employees of the City of Cody and many of the policies apply to temporary and provisional employees.

## SECTION 2: ORGANIZATION DESCRIPTION

The City of Cody was incorporated in the State of Wyoming in 1901 to serve the residents of this Northwestern Wyoming community. The City of Cody is an Administrator with Mayor-Council form of government. The Mayor and six Council members are elected and they hire the City Administrator. The City is comprised of three wards with two Council Members representing each ward.

In meeting the needs of its residents, the City employs an experienced and knowledgeable staff whose duty is to assist in providing the services its citizens require. To carry out this mission, a number of duties and jobs are assigned to the individuals employed by the City of Cody. The employees provide an effective work force which

accomplishes its tasks in the most affordable, efficient and effective manner possible.

The chain of command for the City of Cody begins with Cody residents, who elect the Mayor and Council, which shall be referred to as the Governing Body. The Mayor and Council are the legislative and governing body for the City, with the City Administrator serving as Chief Executive Officer, having superintending control over all City departments.

### **SECTION 3: EQUAL EMPLOYMENT OPPORTUNITY**

The City of Cody is an Equal Employment Opportunity Employer. In order to provide equal employment and advancement opportunities to all individuals, employment decisions will be based on individual merit, qualifications, and abilities. The City of Cody does not discriminate in employment opportunities or practices on the basis of race, color, religion, sex, national origin, age, disability, or any other characteristic protected by law. In addition, the City of Cody is committed to ensuring that employees do not harass or treat any other employee, job applicant or member of the public unfairly.

#### **3.1 Types of unfair or discriminatory treatments that are against the law.**

Under anti-discrimination legislation, unfair or discriminatory treatment based on the following characteristics is against State and Federal Law:

- Age (especially those individuals 40 and older)
- Disability
- Equal Pay
- National origin, including color, race, nationality, or descent and ethnic;
- Religion
- Retaliation
- Sex, including pregnancy; and
- Sexual Harassment
- Genetic Information

3.1.1 **Age:** The Age Discrimination in Employment Act of 1967 (ADEA) protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants. Under the ADEA, it is unlawful to discriminate against a person because of his/her age with respect to any term, condition, or privilege of employment, including hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training.

- 3.1.2 **Disability:** Title I of the Americans with Disabilities Act of 1990 specifically prohibits local governments from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.
- 3.1.3 **Equal Pay:** The Equal Pay Act (EPA) requires that men and women be given equal pay for equal work in the same establishment. The jobs need not be identical, but they must be substantially equal. It is job content, not job titles, that determines whether jobs are substantially equal. Specifically, the EPA provides that employers may not pay unequal wages to men and women who perform jobs that require substantially equal skill, effort and responsibility, and that are performed under similar working conditions within the same establishment.
- 3.1.4 **National Origin:** National origin discrimination means treating someone less favorably because he or she comes from a particular place, because of his or her ethnicity or accent, or because it is believed that he or she has a particular ethnic background. National origin discrimination also means treating someone less favorably at work because of marriage or other association with someone of a particular nationality.
- 3.1.5 **Religion:** The City of Cody may not treat employees or applicants more or less favorably because of their religious beliefs or practices - except to the extent a religious accommodation is warranted.
- 3.1.6 **Retaliation:** An employer may not fire, demote, harass or otherwise "retaliate" against an individual for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination.
- 3.1.7 **Sex, including Pregnancy:** It is unlawful to discriminate against any employee or applicant for employment because of his/her sex in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. Title VII also prohibits employment decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals on the basis of sex. Discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under Title VII.
- 3.1.8 **Sexual Harassment:** Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly

affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

- 3.1.9 **Genetic Information Nondiscrimination Act (GINA):** An act to prohibit discrimination on the basis of genetic information with respect to health insurance and employment. The Act prohibits group health insurance plans and health insurers from denying coverage to a healthy individual or charging that person higher premiums based solely on a genetic predisposition to developing a disease in the future. The Act also bars employers from using individuals' genetic information when making hiring, firing, job placement, or promotion decisions.

The City of Cody will make reasonable accommodations as needed in accordance with the Americans with Disabilities Act unless doing so would result in an undue hardship. This policy governs all aspects of employment, including selection, job assignment, compensation, discipline, termination, and access to benefits and training.

Any employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate Supervisor, Department Head, Administrative Services Director or City Administrator. Employees can raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

The City of Cody shall take action to insure equality of opportunity in employment. The City of Cody shall encourage training for all management and supervisory personnel to provide an understanding of the City's Equal Employment Opportunity policy and its implementation.

### **3.2 IMMIGRATION LAW COMPLIANCE**

The City of Cody is committed to employing only United States citizens and aliens who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin.

In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility within three days of hire. Former employees who are rehired must also complete the form if they have not completed an I-9 with the City within the past three

years, or if their previous I-9 is no longer valid.

Employees with questions or seeking more information on immigration law issues are encouraged to contact their Department Head or the Administrative Services Director. Employees may raise questions or complaints about immigration law compliance without fear of reprisal.

#### **SECTION 4: EMPLOYEE RELATIONS AND ETHICS**

The City of Cody believes that the work conditions, wages, and benefits offered to employees are competitive with those offered by other employers in this area and in this industry. If employees have concerns about work conditions or compensation, they are strongly encouraged to voice these concerns openly and directly to their Supervisor, Department Head, Administrative Services Director or the City Administrator.

Experience has shown that when employees and supervisors deal openly and directly with each other, the work environment and morale can be excellent, communications can be clear, and attitudes can be positive. The City of Cody demonstrates its commitment to employees by responding effectively to employee concerns. Employees may raise concerns about policy compliance and working conditions without fear of reprisal.

While on the job, while wearing City uniforms or attire, while traveling as a representative of the City of Cody and while operating City vehicles and equipment, employees are to conduct themselves in a manner which is a favorable reflection of the City and which demonstrates tact, courtesy, professionalism and good judgment. During working hours, employees are expected to devote their energies to the service of the City and not to personal affairs. Employees of the City of Cody are to be completely honest, open, professional and forthright in their communications with each other. Similar conduct and ethics should be adhered to off the job as well, as each employee is always in the eye of the public.

All City employees are personally and professionally obligated to serve the public with honesty and integrity. It is essential that the trust of the public, the Governing Body and co-workers be maintained as decisions which go into the operation of City programs are made. Central to the standard of ethical conduct is the City's policy that no employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction, or professional activity or incur any obligation of any nature which is in conflict with the discharge of the person's duties in the public interest.

Because the confidence of the citizenry is the very foundation for effective

Government, even an unfounded appearance of unethical conduct by a City employee on or off the job can significantly impair the capability of City government. Thus, avoiding the appearance or reality of a conflict of interest forms the basis for the City's ethics policy. City employment is not to be used for unauthorized personal gain. Any conflict between personal interests and official responsibility is to be resolved by consciously avoiding possible conflicts and disclosing the basis of any conflict or possible conflict to the employee's supervisor so the potential conflict can be reviewed by the Department Head.

## **SECTION 5: CONFLICTS OF INTEREST**

Employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. This policy establishes only the framework within which the City wishes the organization to operate. The purpose of these guidelines is to provide general direction to employees on issues related to the subject of acceptable standards of operation and daily business operations. Contact your Department Head, Administrative Services Director or City Administrator if you are facing a potential conflict of interest or if you are aware of a conflict of interest within the organization.

Transactions within the City of Cody must be conducted within a framework established and controlled by the Governing Body and City Administrator. Business dealings should not result in unusual gains for outside firms or for City of Cody employees. Unusual gain refers to bribes, product bonuses, special benefits, unusual price breaks, and other windfalls designed to ultimately benefit the employer, the employee, or both that they would otherwise not be entitled to. Promotional plans that could be interpreted to involve unusual gain require specific Governing Body and Administrative approval.

Employees shall not use their position for their private benefit as it would be in violation of both state law and City policy. "Private benefit" means the receipt by the public employee of a gift which resulted from that employee holding that office. A "gift" shall have the same meaning as defined by W.S. 9-13-102 (a) (vi) which has many inclusions and exclusions of what a gift means. For specific questions regarding whether or not something is a gift, contact the Administrative Services Director. Generally and most simply stated, a gift is anything of value to the extent that consideration of equal or greater value is not received; and anything that has a value of \$250 or more.

State law also prohibits public employees from using public funds, time, personnel, facilities or equipment for their private benefit or that of another. Public employees shall not use public funds, time, personnel, facilities or equipment for political or campaign activity.

An actual or potential conflict of interest may also occur when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of business dealings or the employee's position duties and responsibilities. For the purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.

No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if an employee has any influence on transactions involving purchases, contracts, or leases, it is imperative that he/she disclose to a Department Head or the City Administrator as soon as possible the existence of any actual or potential conflict of interest so safeguards can be established to protect all parties.

Personal gain may result not only in cases where an employee or relative has a significant ownership in a firm with which the City does business but also when an employee or relative receives any kickback, bribe, substantial gift, or special consideration as a result of any transaction, business duty, or employee activity involving the City of Cody. Types of activity which should not occur during paid work hours include selling personal care products such as Amway or Avon; purchasing supplies or parts for a home business; or otherwise operating a business on work time.

An employee may operate a personal business, hold a job or volunteer for another organization as long as it does not create a conflict of interest for the City or the employee and if he or she satisfactorily performs his or her job responsibilities with the City of Cody. If the City determines an employee's outside interests interfere with performance or the ability to meet the City's requirements as they are modified from time to time, the employee may be asked to terminate the outside activity if he or she wishes to remain with the City.

## **SECTION 6: HIRING, TRANSFERS and PROMOTIONS**

The City of Cody is committed to hiring, transferring and promoting employees who are qualified and who exhibit the necessary skills and requirements for the position. Under no circumstances will the City violate the requirements of the Equal Employment Opportunity Commission. Candidates will not be discriminated against based on race, color, religion, gender, national origin, age, disability or any other characteristic protected by law.

### **6.1 Internal Application Process**

All new or existing open positions at the City will be advertised internally for five days prior to seeking external candidates with the exception of the City Administrator or in situations where in doing so may impede the ability to meet the organization's needs.



In some cases, positions may be advertised internally and externally simultaneously. In rare instances, with the concurrence of the Administrative Services Director and City Administrator, applicants may be recruited to apply for positions that have not been advertised. In this situation, whenever possible, this decision will be communicated to employees along with an explanation as to why it was deemed necessary to recruit without advertising.

Existing qualified employees (including temporary, provisional, regular part-time and full-time) may apply for any internally posted position. Each candidate for City employment must complete an application, letter of intent, resume or any other document required by the City. All necessary information will be reviewed for completeness and to determine if the applicant meets the minimum job qualifications. Those found to be incomplete or that do not meet the minimum position qualifications will be disqualified from the application process. Any falsifications made on application documents may result in dismissal from employment. All applications will be reviewed by the Administrative Services Director or his/her designee and Department Head or his/her designee, as well as any other assigned employees, to determine those candidates who will be invited for interviews. Once submitted to the City, application material shall not be returned.

Applicants must submit application material on or before the deadline stated in the job announcement. However, the Administrative Services Director may permit a letter, resume, or other indication of interest to be accepted, pending receipt of a properly completed application.

## **6.2 Disqualification or Rejection of an Application**

The City may reject or disqualify the application of any person for admission to the selection process, or decline to examine an applicant. An applicant has no right to grieve or appeal any such actions by the City.

### **6.2.1 Motor Vehicle Record Evaluation Criteria**

All applicants whose position would require the ability to drive a City owned vehicle will be subject to provide a five year MVR (motor vehicle record) and if such record poses an unacceptable risk to the City the applicant may not be considered for said position.

## **6.3 Interview Process**

All hiring, including promotions shall be made according to merit, skill and fitness for the position. The City of Cody may use any legitimate objective method to determine the qualifications of applicants, including without limitation, written tests, physical agility tests, oral examinations, panel interviews, assessment centers, oral interviews, reference verification and detailed background investigations.

All candidates selected to interview for any opening will be asked a standardized set of prepared questions which have been reviewed and approved by the Administrative Services Director or his/her designee. Interview panels will consist of at least three members, one of which must be the appropriate Department Head or his/her designee. After completing all interviews, the interview panel will make a recommendation for hire or to interview additional candidates. The Administrative Services Director or his/her designee will ensure a detailed background review verifying at a minimum, the information on the application, including employment history, references and any other information provided by the applicant. This will generally be completed prior to forwarding a recommendation of hire to the City Administrator. If authorized by the City Administrator, a conditional offer of employment will be made to the candidate, pending such requirements as pre-employment drug testing or other requirements for the position. The employee will be in a probationary status for six months (twelve months in the case of sworn police officers or as otherwise directed). In situations where the City of Cody is competing with other job offers, the City Administrator may authorize a conditional offer of employment be made pending a successful background investigation.

If no candidates are selected for hire from the initial interview pool, additional candidates may be selected from the application pool. If the position is not filled from the initial applicant pool, the position may be re-advertised. The City of Cody reserves the right to maintain application pools for six months for the same position at its discretion.

#### **6.4 Hiring**

The City Administrator is the only person authorized to hire. All candidates recommended for hire by a Department Head may be interviewed by the City Administrator or his/her designee prior to hire. This includes part-time, full-time, temporary, and provisional recommendations. Internal applicants will be given consideration for their years of service to the City of Cody when determining their rate of pay. Employees making an upward change in pay grade will be eligible for at least a 5% pay increase and a maximum of a 10% pay increase, depending on what step they are currently at in their current pay grade. For those employees who are moving several grades, if the 1<sup>st</sup> step of their new grade is greater than 10%, they will be allowed to move to the 1<sup>st</sup> step of their new grade. Those employees, who voluntarily move downward in pay grade for personal reasons and not for performance or disciplinary reasons, may do so. If they have worked for the City of Cody for five (5) or more continuous years, they may be placed at step 4 which is considered the midpoint.

#### **6.5 External Application Process**

Generally, all applications for employment advertised to the public will be advertised in the local newspaper of general circulation, a local radio station and/or the Cody Employment Office for a period of two weeks and a deadline in which to submit an application will be stated. For some specialized positions, regional newspapers, professional affiliation websites or other recruiting resources may be used and the application deadline may be open until filled. All other aspects of Sections 6.2-6.4 also apply to external applicants.

### **6.6 Transfers**

All City employees are eligible to apply internally for transfers to similar positions, including temporary and provisional employees so long as the City of Cody has an opening in the position the employee desires. Applicants for higher grade positions must follow the procedures outlined under Promotions. The City Administrator may transfer employees to other departments or divisions at his/her discretion when it is in the best interest of the employee, department, division, or City. An employee who is transferred to another position will be paid at the same step of the new grade.

### **6.7 Promotions**

All competitive promotions within the City will be advertised internally, with the exception of the City Administrator, for five days. In general, qualified candidates may be interviewed prior to the City advertising to the general public. The interview panel will include at least three members, one of which must be the Department Head, or his/her designee. Each applicant's performance evaluations and past City service shall be reviewed and may be used as legitimate criteria in determining the best candidate for the position. Employees are not eligible to apply for a promotion if they are subject to any disciplinary action at the time the promotion announcement is made.

The Department Head will obtain authorization from the City Administrator prior to making an offer of promotion to the selected candidate. Promoted employees will be placed on probation for six months. The applicant pool will remain effective for similar promotional openings for six months. After that time, positions must be posted or advertised as outlined above.

### **6.8 Hiring Exceptions**

The City Administrator is authorized to hire outside the parameters set in sections 6.4 - 6.7 if it is in the best interest of the organization.

6.8.1 Hiring Certified Wyoming Peace Officers: Following verification from the Wyoming Peace Officer Standards and Training Commission (P.O.S.T.) that a person is currently certified by the commission as a peace officer, the City may employ that person as an officer without further investigation or examination as per Wyoming State

Statute 9-1-711. The City Administrator or his/her designee shall determine whether the statutory items shall be performed, or if any or all of the items may be waived.

### **6.9 Hiring of Relatives**

The employment of relatives in an organization can cause serious conflicts and problems with favoritism and employee morale. In addition to claims of partiality in treatment at work, personal conflicts from outside the work environment can be carried into day-to-day working relationships.

Family members of persons currently employed by the City of Cody may not be hired for positions, including seasonal, temporary, provisional, and regular part-time and full-time if they will be supervised in any manner or at any time by their family member.

This policy applies to any relative who currently occupies a regular part-time or full-time position with the City of Cody.

If two employees of the City of Cody marry after employment has been established, the individuals may not continue in a position where one might be supervised by the other in any manner. If this occurs, the City Administrator with the concurrence of the Administrative Services Director will decide who is to be transferred, assuming a position exists for that person to transfer into. An employee transferred to a position will receive a rate of pay within the scale established for that position. If there are no available positions for the employee to be transferred to, the City Administrator will assign another Supervisor or Department Head to the employee who would be supervised by their spouse until such time that a position becomes available in another division or department. At such time, whichever employee is determined to be most suited for the open position will be transferred.

**6.9.1 Nepotism:** Under Wyoming State Statute 9-13-104(a) (b) nepotism is very strictly defined. It is defined as: "No public official, public member or public employee shall advocate or cause the employment, appointment, promotion, transfer or advancement of a family member to an office or position of the state, a county, municipality or a school district. A public official, public member or public employee shall not supervise or manage a family member who is in an office or position of the state, a county, municipality or school district. A public official, public member or public employee, acting in his/her official capacity, shall not participate in his/her official responsibility or capacity regarding a matter relating to the employment or discipline of a family member."

A family member is anyone related to the employee by blood or marriage.

### **6.10 Probation**

All newly hired and promoted employees shall be placed on probation for a period

of six months with the exception of newly hired Police Officers where State Statute requires probation for one year. The probationary period is an integral part of the examination process and shall be utilized as an opportunity to observe the employee's work, to provide special training, to assist the employee in adjusting to the new position, and identify any employee whose work performance, adaptation or personal conduct fails to meet required standards. **When placed on probation at initial hire, a probationary employee shall have no rights of tenure and may be terminated without cause, without notice and without rights of appeal.** Initial probationary periods may be extended at the discretion of the City Administrator and the Department Head.

Employees may also be placed on probation for disciplinary actions where any future infractions of policy during the probationary period will result in further disciplinary action up to and including termination.

If placed on probation due to a promotion, and an employee fails to meet the probationary period, the City of Cody will attempt to place the employee in a position equivalent to the position the employee left to pursue the promotion if one is available. If the failure to meet the probationary period is due to any misconduct or violation of policy, the City may terminate the employee without consideration to place the employee back into an equivalent position.

## **SECTION 7: ORIENTATION**

The Administrative Services Director, his or her designee and Supervisory personnel shall be responsible for providing orientation to new employees regardless of classification. Orientation shall include information about the structure of City government and its functions, pay plans, personnel rules and policies, benefits, safety procedures and programs, policies of office or work area and department, grievance procedures, necessary employment forms and any other policies or programs which may affect the person's employment.

Each new employee shall receive a copy of this manual and shall indicate receipt and understanding by signature. Orientation shall be provided on an on-going basis as policies and procedures are created, revised or updated. An initial employee orientation checklist shall be signed by the employee and made a permanent part of the employee's personnel file.

## **SECTION 8: EMPLOYMENT CATEGORIES**

It is the intent of the City of Cody to clarify the definitions of employment classifications so employees understand their employment status and benefit eligibility. Each employee is designated as either NONEXEMPT or EXEMPT from federal and state wage and hour laws. NONEXEMPT employees are entitled to overtime pay under the specific provisions of the federal Fair Labor Standards Act. EXEMPT employees are excluded from minimum wage and overtime requirements under the federal Fair Labor Standards Act. An employee's EXEMPT or NONEXEMPT classification may be changed only upon written notification by the City Administrator.

In addition to the above, each employee will belong to one of the employment categories as defined below:

**8.1 REGULAR FULL-TIME** employees are those who are not in a temporary or probationary status and who are regularly scheduled to work the City's full-time schedule (40 hours per week). Generally, they are eligible for the City's benefit package, subject to the terms, conditions, and limitations of each benefit program.

**8.2 REGULAR PART-TIME** employees are those who are regularly scheduled to work at least 20 hours per week, but no more than 29 hours per week, on average, throughout each year. Regular Part-Time employees receive all legally mandated benefits (such as Social Security and Workers' Compensation insurance), as well as a variety of other benefits available to full-time employees. Health Insurance is an excluded benefit. For a more detailed description of the benefits offered, see the Employee Benefits section of this manual.

**8.3 PROBATIONARY** employees are full-time and regular part-time employees' whose performance is being evaluated to determine whether further employment in a specific position or with the City of Cody is appropriate. Employees who satisfactorily complete the probationary period will be notified of their new employment classification. Employees in this category are generally eligible for the City's benefit package, subject to the terms, conditions, and limitations of each benefit program. See section 6.10 for further information regarding probationary employees.

**8.4 PROVISIONAL** employees are those who are hired to work year-round, but less than 20 hours per week on average. Their employment may be terminated at any time without cause. While Provisional employees receive all legally-mandated benefits (such as Worker's Compensation insurance and Social Security), they are not eligible for any of the City's other benefit programs and are not subject to the employment benefits of this personnel and policy manual. Either the City of Cody or employee may terminate the employment at any time with or without cause, without notice and without the right to appeal. The City of Cody personnel employee manual does not create an employment contract, and no

statements of assurances by the City employees shall change the at will status of this position.

**8.5 TEMPORARY** employees are those who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project. Employment assignments in this category are of a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary employees retain that status unless and until notified in writing of such change. Temporary employees shall receive all legally-mandated benefits (such as workers' compensation insurance and Social Security), and may be eligible for other City benefit programs dependent upon the initial terms and agreements of their employment. Generally, temporary employees are not subject to the employment benefits of this personnel and policy manual. . Either the City of Cody or employee may terminate the employment at any time with or without cause, without notice and without the right to appeal. The City of Cody personnel employee manual does not create an employment contract, and no statements of assurances by the City employees shall change the at will status of this position.

## **SECTION 9: POSITION CLASSIFICATION**

The City Administrator or his/her designee shall prepare a Position Classification plan which sets forth all of the positions of the City of Cody including position title and a general description of the duties and responsibilities for each position. The Position Classification Plan shall also group all positions into grades. Positions within the same grade will be of equal difficulty and responsibility, require the same general qualifications and can be equitably compensated within the same range of pay under comparable working conditions. Each grade has 7 steps. Please see section 11 for information regarding performance evaluations.

The classification or position descriptions may be amended from time to time by the City Administrator as deemed in the best interest of the City. In addition, new classification or position descriptions may be added to the City's Position Classification Plan. If new positions are added, such positions shall be allocated to an appropriate grade by the City Administrator or his/her designee.

If employees believe they are performing work outside the scope of the classification description covering their position, they should report the information, in writing, immediately to the City Administrator. If deemed appropriate by the City Administrator, a review of the employee's duties will be conducted, in consultation

with the employee, the employee's Department Head and the Administrative Services Director or his/her designee. The City Administrator or his/her designee will notify the employee and Department Head of the final determination. If appropriate, the employee's position may be reallocated to a different classification of pay grade.

### **Section 9.1 Job Classification Criteria**

Job classifications are based on a numerical point system that measures the following:

- 9.1.1 **Job Knowledge:** This factor measures the nature and extent of information or facts which the worker must understand to do acceptable work (e.g., steps, procedures, practices, rules, policies, theories, principles, concepts and precedents) and the nature and extent of skills/abilities necessary to apply the acquired knowledge. It also includes the amount of training required by the job prior to entry in addition to any special requirements, certifications or licenses the employee must have in order to do the job.
- 9.1.2 **Responsibility:** This factor measures how much control over the job each employee has and how much responsibility the employee has for accuracy and accountability. In addition, this factors the extent to which the employee has contact with the public, supervises others or is responsible for a division or department budget.
- 9.1.3 **Difficulty:** This factor measures the degree of mental or emotional fatigue or stress inherent to the job and sustained through concentration, work pressures or critical incidents. In addition it considers the cycle, duration, and intensity sustained and considers the need to deal with the public over controversial issues. It also measures the responsibility for problem resolution and the need to meet time deadlines.
- 9.1.4 **Work Environment:** This factor measures how much physical effort must be exerted in the position and the variety of working conditions the employee must be exposed to in performing the essential functions of the job.

### **SECTION 10: PERSONNEL INFORMATION CHANGES**

It is the responsibility of each employee to promptly notify the Administrative Services Director or his/her designee of any changes in personnel information. Personal mailing addresses, telephone numbers, number and names of dependents, marital status, individuals to be contacted in the event of an emergency, educational accomplishment, and other such status reports are to be accurate and current at all times. If any personnel data has changed the employee is to notify the Administrative Services Department. Failure to notify the Administrative Services Director or his/her designee of dependent or family changes within a timely manner may affect benefit coverage. The City is not responsible for lack of coverage or benefits not applied due to the



employee's lack of notification of change in their personnel information.

## **SECTION 11: PERFORMANCE EVALUATIONS**

Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day-to-day basis. Formal performance reviews are conducted at 3-month and 6-month intervals upon placement in a probationary position. During the reviews, the supervisor and employee will review the job responsibilities, goals, and performance requirements of the position. Additional annual performance reviews are conducted to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths, and discuss positive, purposeful approaches for establishing and meeting goals. During each review period, new goals will be assigned to each employee and it is the expectation that the goals will be completed by each assigned deadline. It is the employee's responsibility to discuss his/her goals with the supervisor or Department Head throughout the review period if he/she has difficulty completing the assigned goals.

Formal, written performance reviews are mandatory and scheduled annually no later than the employee's anniversary date of hire or promotion. They are conducted by the appropriate Department Head and/or supervisor and reviewed with the employee. The employee has the right and is encouraged to comment in the employee remarks section of the evaluation.

Performance reviews are also signed by the City Administrator and the Administrative Services Director or his/her designee(s). The employee and supervisor will also sign and date the review. A complete signed copy will be provided to the employee. The original performance review will remain in the employee's permanent personnel file.

If employees are meeting or exceeding job expectations by completing their goals and following City of Cody policies, they are eligible for a merit increase at their anniversary date. A merit increase is based on the City's Step and Grade Classification Plan approved by City Council. Currently each step is 5%. There are 7 steps per grade. Once the employee reaches the 7<sup>th</sup> step, there are no further merit increases. The City Administrator administers and maintains this plan and may request appropriate revisions to the plan as often as necessary to assure the plan provides uniform, competitive and equitable compensation for the work performed. For outstanding employees, the Department Head or City Administrator may request a 10% merit increase for an employee on a one time basis at the time of the employee's evaluation. The request must be approved by the City Administrator with the concurrence of the Administrative Services Director.

In general, merit increases will be budgeted for in the regular budget process; however in the case of budgetary shortfalls, the Governing Body reserves the right to reduce or eliminate merit increase pay at their discretion.

## **SECTION 12: FITNESS FOR DUTY EVALUATIONS**

The City of Cody, at its expense, may require an employee to undergo a fitness for duty evaluation for any reasonable cause. A fitness for duty examination may include a psychological or medical exam, or both if necessary. If this is deemed necessary, the employee will be protected by HIPPA rules and regulations as set forth in section 21 of this manual.

## **SECTION 13: WORK SCHEDULES, ATTENDANCE, REST AND MEAL PERIODS AND OVERTIME**

**13.1 WORK SCHEDULES:** The normal work schedule for full-time employees is eight hours a day; five days a week unless a schedule change has been requested by the employee and approved or modified by the Department Head. For several divisions or departments, shift work is required and in these divisions or departments, the Department Head sets the schedule to most effectively meet the needs of the City. The Department Head and/or his/her designee may also modify employee schedules in order to best fit the needs of the department and/or the City of Cody. Regular part-time employees are expected to work a minimum of 20 hours and no more than 32 hours per week on average throughout the year. Work schedules for provisional and temporary employees will be set to meet organizational requirements. Employees are expected to report to work on time unless prior notification and approval has been obtained from the supervisor or Department Head.

Supervisors will advise employees of when their schedules will begin and end. Staffing needs and operational demands may necessitate variations in starting and ending times, work days and total hours scheduled each day and week. Employees working flexible schedules with longer than eight (8) hour days will not be eligible for holiday benefits greater than eight (8) hours for each designated holiday. Employees working flexible schedules must supplement their leave with vacation, personal leave or compensatory time.

Employees may be required to be on stand-by time during evening, early morning, weekend or holiday hours. Such schedules will be set by the appropriate Department Head. For additional information on stand-by and call out, please refer to the policy outlining procedures in these situations.

**13.2 ATTENDANCE AND PUNCTUALITY:** To maintain a safe and productive work environment, the City expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees and on the City. In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, they are to notify their supervisor as soon as possible in advance of the anticipated tardiness or absence.

If an employee knows he/she will be late, every effort must be made to notify the supervisor or Department Head at least one hour in advance of the scheduled start of work.

Failure to notify and seek approval for an employee's absence from work and excessive tardiness may lead to disciplinary action, up to and including termination of employment.

**13.3 REST AND MEAL PERIODS:** The City of Cody may provide breaks during the workday when it is necessary to avoid repetitive injuries or to ensure a safe working environment. Breaks are not guaranteed and will be at the discretion of the Department Head. Breaks cannot be combined or scheduled at the beginning or end of the workday. Generally, employees must not leave the building or work site during the break and are to refrain from conducting personal business during the break time. Breaks may be authorized as necessary for safety or health reasons.

Meal periods will be scheduled to accommodate operating requirements. Employees will be relieved of all active responsibilities and restrictions during unpaid meal periods and will not be compensated for that time. During paid meal times employees are to continue their work responsibilities and remain available to attend to work requirements. With the exception of police staff, employees may not leave the building or work site during paid meal times.

Rest and meal periods may not generally be accumulated or combined with other scheduled time off to increase the length of time away from work. Department Heads and supervisors may set varying schedules for rest or meal periods to obtain optimum use of employees' time.

**13.4 OVERTIME:** When operating requirements or other needs cannot be met during regular working hours, employees may be scheduled to work overtime hours. When possible, advance notification of these mandatory assignments will be provided. **All overtime work must receive the supervisor's and/or Department Head's approval in advance unless the overtime unavoidable.** Overtime assignments will be distributed by designated supervisory personnel as needed to meet organizational requirements.

Overtime compensation (including compensatory time) is paid to all nonexempt (hourly) employees in accordance with federal and state wage and hour regulations. The overtime rate of pay for the City of Cody is one and one-half times the employee's regular rate of pay.

Eligible employees may elect to take compensatory time in lieu of overtime pay in accordance with other City of Cody policies and procedures and with the approval of the employee's Supervisor or Department Head. Employees may accrue up to forty (40) hours of compensatory time.

Failure to work scheduled overtime or overtime worked without approval from the Supervisor or Department Head may result in disciplinary action, up to and including possible termination of employment.

#### **SECTION 14: TIMEKEEPING**

All employees must accurately record hours worked. Federal and State laws require the City of Cody to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Overtime work must always be approved in advance of being worked. Employee time sheets will not be recorded by any individual other than the employee, his/her Supervisor or Department Head. Any changes to the employee's time sheet will be reviewed by the supervisor and employee.

Altering, falsifying, tampering with time records, or modifying time on another employee's time record may result in disciplinary action, up to and including termination of employment and could result in criminal prosecution.

Nonexempt employees should report to work no more than 5 minutes prior to their scheduled starting time and stay no more than 5 minutes after the scheduled stop time without prior authorization from their Supervisor or Department Head. The work day, however, begins and ends at specific, stated times. Nonexempt employees may not work before or after the scheduled work day on their time record unless approved by their Supervisor or Department Head.

In order to be properly paid for time worked, it is the employee's responsibility to properly record time, sign the time record to certify the accuracy of all time recorded and turn in the time sheet as directed. The Supervisor and/or Department Head will

review and sign the time record before submitting it for payroll processing. Corrections or modifications made to the time record must be approved by the Supervisor or Department Head and be communicated to and initialed by the employee.

If a nonexempt employee is absent from work for any reason (sick leave, vacation leave, holiday leave, bereavement leave, etc.) the employee's time record will be signed by his/her Supervisor or Department Head.

The City of Cody takes all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on the scheduled payday. In the unlikely event that there is an error in the amount of pay, the employee should promptly bring the discrepancy to the attention of the appropriate Department Head or the payroll department so corrections can be made with the next pay check.

## **SECTION 15: PAY PROCEDURES**

**15.1 PAY PERIODS:** All employees of the City of Cody are paid every other Wednesday. Each paycheck will include earnings for all work performed through the end of the previous pay period. Each pay period starts on a Monday at 6:00 a.m. and runs to the next Monday at 6:00 a.m. unless set differently for a specific division or department.

In the event that a regularly scheduled payday falls on a day that a majority of the City is not working such as a holiday, employees will receive pay on the last day of work before the regularly scheduled payday. If a regular payday falls during an employee's vacation, the employee's paycheck will be available upon his or her return from vacation unless arrangements have been made for the check to be released to another authorized person. Paychecks may not be picked up by individuals other than the employee or supervisor unless the employee has given that person written authorization to accept the check and the authorization is on file with the Administrative Services Director.

The City of Cody offers and encourages employees to receive their pay through Direct Deposit. Direct Deposit pay will be credited to the employee's chosen bank account on the morning of the pay day. The employee will receive a pay stub similar to the pay stub of a regular check. Direct deposit participation is encouraged for all employees as it is a cost savings to the City of Cody.

Final paychecks will be held at City Hall to be picked up by the employee unless other written arrangements have been made by the employee and provided to his/her Supervisor or the Payroll Department. Final paychecks will be issued within five business

days of the employee's last day of work.

**15.2 PAY DEDUCTIONS:** Federal and State laws require that the City of Cody make certain deductions from every employee's compensation. Among these are applicable federal, state or local income taxes. The City must deduct Social Security taxes on each employee's earnings up to a specified limit that is called the Social Security "wage base." The City matches the amount of Social Security taxes paid by each employee.

The City may also deduct wages if a properly executed garnishment is served to the City or if the City has been directed to withhold child support or other court mandated deductions.

The City of Cody offers programs and benefits beyond those required by law such as health insurance, long term disability insurance, retirement, as well as other voluntary retirement and insurance programs. Eligible employees may authorize deductions from their pay checks to cover the costs of participation in these programs.

**15.2.1 Exempt Employees:** In accordance with the Fair Labor Standards Act regulations, exempt employees who are required to be paid on a salary basis may not have their pay reduced for variations in the quantity or quality of work performed. Employees who feel their pay has been improperly reduced should report this immediately to the Administrative Services Director or his/her designee or to the City Administrator.

Exempt employees must normally receive their full salary for any week in which they perform work, without regard to the number of days or hours worked. However, the City of Cody may suspend an exempt employee without pay for less than a full week if the exempt employee has been found in violation of workplace misconduct, safety violations or general violation of City policy. Full day absences other than suspensions without pay will require the employee to use accrued leave time, unless otherwise authorized by the City Administrator. Exempt employees need not be paid for any work week in which they perform no work at all for the organization.

Deductions from pay cannot be made as a result of absences due to jury duty, attendance as a witness, absences caused by the City of Cody, or partial day absences. Unpaid disciplinary suspensions of one or more full days are permitted so long as they are in accordance with the City of Cody's Disciplinary Actions and Appeal Procedure policy. Deductions for the first and last week of employment, when only part of the week is

worked by the employee may be deducted and the actual time worked may be paid. Improper pay deductions are specifically prohibited by the City of Cody, regardless of the circumstances.

Exempt and non-exempt employees may ask their Supervisor, Department Head or Administrative Services Director or his/her designee any question regarding why deductions were made from their pay check or how they were calculated.

**15.3 PAY ADVANCES:** The City of Cody does not provide pay advances to employees. In cases of extreme emergency or hardship, the employee may make a request to the City Administrator in writing to allow cashing in accrued vacation and/or comp time in lieu of a pay advance.

#### **SECTION 16: STAND-BY AND CALL-OUT**

Due to the responsibilities of ensuring the public's health, safety and welfare, many City of Cody employees may be assigned to work outside their regular schedule. In order to ensure that City staff is available to address these occurrences, stand-by time is required. Stand-by is defined as the period of time that an employee must be available to take a call and respond to work within a reasonable period of time. Compensation is provided for this time that an employee is on Stand-by and therefore the employee is limited to activities that most employees would be afforded beyond the normal work day. An employee placed on stand-by may be issued a City of Cody pager or cell phone which he/she will keep during all hours he/she is on stand-by. An employee on stand-by will be the first employee called to address such situations as a power outage, broken water line, snow or ice buildup or other situations requiring immediate attention. Assignment of stand-by duty will be coordinated by the appropriate Supervisor or Department Head. Department Heads or Supervisors may, depending on the situation which arises, call out an employee who is not on stand-by in addition to or in lieu of the employee on designated stand-by. In some departments and/or divisions, it may be necessary to have more than one employee on stand-by.

Call-out is defined as the phone call or communication received which requires a response from the stand-by employee to a determined location to address a public health, safety or welfare issue. Call-outs may come from the Park County Dispatch Center, a Supervisor, a Department Head, City Administrator, or any Incident Commander during an emergency.

For employees who are subject to stand-by the response requirements shall be as follows:

- All city employees who are assigned to stand-by must be available to respond to the call out location within 45 minutes of the call-out. Care and consideration should be taken when accounting for adverse weather conditions, road conditions, and known hazards. All employees shall obey and adhere to all Federal, State and Local traffic laws and shall drive in a safe and prudent manner. All emergency responders must comply with Wyoming State Statute 31-5-106 as well as all other rules and regulations as defined within the Cody Police Department Procedures Manual.

Compensation for stand-by time will be provided as follows:

Monday - Friday beyond the regular work schedule - 1 (one) hour regular pay for each 24 hour period on stand-by.

Saturday and Sunday - 2 hours regular pay for each 24-hour period (4 hours total).

Holidays - 4 hours regular pay for each observed City of Cody 24-hour holiday.

In the event an employee is called out to work to address an immediate situation outside the regular work schedule, he/she shall be compensated at the overtime rate (once he/she has already worked 40 hours in a work week) of one and one-half his/her regular rate of pay. Each call out begins when the employee arrives at the call out location(s), and ends when the employee has finished the job and leaves call out location(s). Employees who have not reached 40 hours worked shall be compensated at his/her regular rate. Call-outs will be computed as follows:

- Each call-out lasting less than two hours will be compensated for two hours at the overtime rate. If an employee is called out again during those initial two hours, he/she will not receive additional two-hour compensation. If the additional call-outs last beyond the two hours, the following will occur.
- If a call-out extends beyond two hours, the employee will be compensated at the overtime rate for the actual amount of time worked.

An employee who is assigned stand-by time shall be available to respond to calls requiring action. Employees are required to adhere to this policy as well as the related provisions in Sections 24.6, 24.7, and 29, which requires employees to use the City take home vehicle for City purpose only, to remain within a 45 minute response time during the entire period the employee is assigned to stand-by duty, and shall refrain from using, possessing, distributing, selling, or be under the influence of illegal drugs or



alcohol. In addition, if he/she cannot be located, fails to respond within 45 minutes, or otherwise violates this policy, he/she will be subject to disciplinary action up to and including termination of employment.

Employees earning standby pay or call-out pay may choose to be compensated in pay or in compensatory time.

## **SECTION 17: PERSONAL APPEARANCE**

Professional dress, appearance, grooming, and personal cleanliness standards contribute to the morale of all employees and affect the professional image the City presents to the community which includes people of all ages. In many positions, City employees are viewed as role models for young people. City of Cody employees should dress and maintain a personal appearance that reflects a role model image for all age groups.

During working hours, employees are expected to present a clean and neat appearance and to dress and present themselves according to the professional requirements of their positions. Consult your Supervisor or Department Head if you have questions as to what constitutes appropriate attire. The Department Head or Supervisor reserves the right to request body piercings and tattoos to be removed or covered up during working hours.

Depending on the employee's position with the City of Cody, uniforms may be issued as mandatory attire during working hours. Additional information relative to required attire may be obtained from the appropriate Supervisor or Department Head.

Employees, with the exception of the police department, may wear their uniforms when off-duty and are requested to use their good judgment while wearing items with City logos as the perception would be that you are representing the City of Cody.

## **SECTION 18: RETURN OF PROPERTY**

Employees are responsible for all property, materials, or written information issued to them or in their possession or control. All City property must be returned by employees on or before their last day of work or upon transfer. Where permitted by applicable laws, the City may withhold from the employee's paycheck the cost of any items not returned. The City may also take all action deemed appropriate to recover or protect its property. With the approval of the employee's supervisor or department head,

certain articles of clothing may not be required to be returned to the City of Cody.

### **SECTION 19: SECURITY INSPECTIONS**

The City of Cody is committed to providing a work environment free of illegal drugs, alcohol or other improper materials. Therefore, the City prohibits the possession, transfer, sale, or use of such materials on its premises. The City requires the cooperation of all employees in administering this policy.

Computers, desks, lockers, and other storage or work devices may be provided for the convenience of employees to use or store legal and appropriate personal belongings. They remain the sole property of the City of Cody. Accordingly, they, as well as any information or articles found within them, can be inspected by any supervisory staff for the division or by the City Administrator or Department Head, or by any other staff representative as assigned by the City Administrator or Department Head. Inspections can occur at any time, either with or without prior notice.

In addition, computers issued to employees for City business, may be inspected for inappropriate use at the request of a Supervisor, Department Head or City Administrator. As a general rule, when the City Communication and Information Systems Analyst or Network Technician repairs or updates any City owned computer equipment he/she will inspect the computer for material or use not appropriate for the work place.

### **SECTION 20: SMOKING**

In keeping with the City of Cody's intent to provide a safe and healthful work environment, smoking is prohibited in all City owned facilities and vehicles. This policy applies equally to all employees, customers, and visitors.

### **SECTION 21: EMPLOYEE MEDICAL EXAMINATIONS**

To help assure that employees are able to perform their duties safely, drug tests are required as a condition of full-time and regular part-time employment with the City. In addition, any classification of employee whose responsibilities include driving City vehicles or equipment will also be subject to a pre-employment drug test.

The City is committed to providing a safe, efficient and productive work environment for all employees. Using or being under the influence of drugs or alcohol on the job may pose serious safety and health risks. To help ensure a safe and healthful working environment, individuals offered a full-time or part-time position with the City will be

asked to provide body substance samples (such as urine and/or blood) to determine the presence of alcohol or illegal or illicit drugs. Temporary employees who are offered a position with the City of Cody that will require them to drive City vehicles and equipment will also be asked to provide body substance samples (such as urine and/or blood). Job offers will be conditioned upon passing the test, which will be conducted by a certified laboratory of the City's choosing.

Employees required to maintain a commercial driver's license in their employment with the City of Cody will be subject to all testing and compliance requirements of the Federal Omnibus Transportation Employee Testing Act of 1991. Additional employees who hold safety sensitive positions may also be subject to random testing programs.

Information on an employee's medical condition or history will be kept separate from other employee information and maintained confidentially. Access to this information will be limited to those who have a legitimate need to know and must be approved by the Administrative Services Director and/or City Administrator.

## **SECTION 22: HIPAA REGULATIONS**

The City of Cody provides a group health insurance plan and employs more than 50 employees, and is therefore mandated to comply with HIPAA (Health Insurance Portability and Accountability Act of 1996) regulations. HIPAA was designed to help protect employees' rights to health coverage during events such as changing or losing jobs, pregnancy, moving or divorce. It also protects employers when providing health coverage for employees. The main purpose of the HIPAA regulation is to safeguard any protected health information. The regulations protect medical records and other individually identifiable health information on paper, in computers or communicated orally. The City of Cody may not disclose any protected health information unless it is for treatment, payment or plan operations, unless the City of Cody has obtained consent from the employee, or is permitted or required by the privacy rule. When using or disclosing protected health information or when requesting it from another covered entity, the City of Cody must take reasonable steps to limit it to information that is the *minimum necessary* to accomplish the intended purpose of the use, disclosure or request.

In complying with HIPAA regulations, the City of Cody must appoint a privacy officer. The privacy officer for the City of Cody will be the Administrative Services Director or his/her designee.

## **SECTION 23: USE OF PHONE, MAIL AND COMPUTER SYSTEMS**

Personal use of City telephones including cellular phones for long-distance and toll calls is not permitted. Employees should practice discretion in using City telephones when making or receiving personal calls. All personal calls which may result in a charge for use must be placed on the employee's personal calling card or charged to the employee's personal telephone.

In order to insure the safety of employees during work time, as well as the safety of the public, all City of Cody employees must also abide by the following:

1. Employees operating a City Vehicle or a personal vehicle while on City business must pull over and stop in a safe location before answering a call or placing a call on a cellular phone.
  - a. Exceptions:
    - i. If the employee has a hands free device in the vehicle or a blue tooth device, cell phone use while driving will be permitted. Employees are encouraged however, to pull over to a safe location if possible as conversations in and of themselves can be distracting.
    - ii. The City of Cody Police Officers are exempted from section 1 of this policy.
2. Use of personal cell phones for non-job related communications while on duty shall be limited to incidental or necessary use only.
3. Personal cell phones shall be turned off whenever an employee is performing safety critical work such as operating heavy equipment, performing construction activities or any other duty where distractions can be dangerous.
  - a. Exception:
    - i. If the employee's supervisor has required the employee to use a personal cell phone for work related communication, the cell phone may be left on.
4. If cell phone use is required for job related communications, the following procedure shall be followed:
  - a. When a call is received while an employee is performing hazardous or safety critical work, the employee will not answer the call until the work is completed or suspended in such a manner that the safety of the employee and the public is insured. This shall apply to the use of radio communications as well.
  - b. If the employee must make a call while performing hazardous or safety critical work, the employee must either complete or suspend the work and insure they are in a safe location or situation before placing the call.
5. This policy does not absolve a City employee from following all current Wyoming State Statutes covering cell phone use.

The use of City-paid postage for personal correspondence is not permitted. The same is true for faxing and copying personal documents for personal use. A fee schedule has been set by the City of Cody for the general public and all employees must abide by the fee schedule if using City Equipment for personal use.

Electronic mail, electronic messaging, Internet and other computer communication methods are made available to many employees to improve organizational efficiency. Users of such systems are responsible for complying with this policy. Violations of the policy may be the basis for disciplinary action, up to and including termination.

Computer systems provided by the City should be used for the City's purposes. They are owned solely by the City of Cody and information contained in them is to be treated the same as other company business records, materials and equipment. The City of Cody maintains the right, but not the duty, to monitor all communications and downloads passing through its facilities. Use of the system for the communication of personal, information is not appropriate as everything that is produced is considered a public record and may be discoverable in certain court situations. If incidental or occasional personal use of the system is made, such use is subject to the same policies and procedures set out in this policy.

The City of Cody maintains the right to review all company and consequently personal records, including electronic or e-mail messages. To assist in further clarification of this policy, employees are expected to read and understand the following information.

**23.1 Improper Activities:** City of Cody employees are not to view, download, send, disseminate or knowingly receive harassing, pornographic, threatening, sexually explicit, obscene or illegal information by use of the City's equipment and facilities. Employees may not use the City's facilities or equipment to conduct illegal activity or for personal or commercial advertisements, solicitations or promotions.

**23.2 E-Mail:** E-mail resembles speech in its speed and lack of formality. However, unlike speech, e-mail leaves a record that is often retrievable after the sender and recipient have deleted. E-mail messages can be misdirected by the sender or by an error in the message routing process. Internet e-mail relies on public networks outside the City's control. Service levels and confidentiality cannot be guaranteed.

**23.3 Internet:** Material may not be downloaded from the Internet in a manner which violates software licenses or the copyright trademark and patent laws.

## **SECTION 24: ASSIGNMENT AND OPERATION OF CITY-OWNED VEHICLES AND**

## EQUIPMENT POLICY

### Section 24.1 Purpose

Equipment and vehicles essential in accomplishing job duties are expensive and may be difficult to repair or replace. When using property, employees are expected to exercise care, perform required maintenance, follow all applicable laws and City policies and follow all operating instructions, safety standards and guidelines. City vehicles and equipment may only be used for City purposes and as authorized.

These rules and procedures govern the assignment and proper use by City employees of City-owned or leased vehicular or other equipment. The purpose of these procedures is to insure the most efficient and effective use of City vehicles and to minimize potential City liability to the greatest extent possible. Further, these procedures will insure that vehicles and equipment allocated to City employees will be utilized in a legally and economically responsible manner to the benefit of the municipal organization and citizens of Cody. Misuse or damage to City equipment, vehicles and/or property may result in disciplinary action up to and including termination of employment.

### 24.2 Adherence to Traffic Laws

Any employee of the City who drives or operates City-owned motor vehicles or motorized equipment shall strictly obey the State of Wyoming, City of Cody, and all other traffic regulations and operating procedures. City employees will at all times drive City-owned motor vehicles and motorized equipment defensively, safely, and courteously on both public rights-of-way and private property.

Any employee who abuses or negligently uses City-owned motor vehicles or motorized equipment or who violates any city, state or federal traffic law may be subject to disciplinary action up to and including termination. All fines received shall be the responsibility of the employee.

In incidents involving property damage to City-owned vehicles or equipment, or to private property involving City vehicles or equipment, it shall be the employee's duty to contact law enforcement and his/her Supervisor or Department Head immediately. The Department Head or Supervisor shall conduct an investigation into the circumstances. The Department Head or Supervisor and employee shall prepare a written report, which includes a statement of the facts and conclusions of the incident. These reports shall be sent to the Administrative Services Director prior to the Department Head or Supervisor administering any disciplinary action to insure consistency in disciplinary action.

Any employee of the City who drives or operates City-owned equipment must maintain an appropriate, valid driver's license and follow Driver's Licensing Rules and Regulations including commercial vehicle requirements (CDL).

### **24.3 Responsibility for Motor Vehicle Fleet**

All City-owned or leased motor vehicles and equipment shall be under the direction of the Department Head, who shall be responsible for the operational ability of motor vehicles. The Department Head shall also issue any appropriate safety rules for the operation of any City equipment after receiving concurrence of the City Administrator. The Vehicle Maintenance Division shall provide support services including maintenance, servicing and safety training of each department's fleet.

Upon hiring new employees, the Department Head shall be responsible for ensuring proper training of new employees before allowing the operation of City-owned motor vehicle equipment to insure that they possess the proper classification as to the kind of equipment they are qualified and required to operate. All driving violations in personal or City-owned vehicles, on or off-duty, which result in a suspension or restriction of the employee's driving privileges must be reported immediately to the employee's immediate supervisor. The Administrative Services Director or his/her designee will administer annual reviews of driver's licenses and shall, along with supervisory staff, maintain a list of license types required for each vehicle class and ensure each employee maintains the appropriate type of license. The following criteria will be considered in determining marginal or poor driving records:

- Conviction for an alcohol and/or drug related driving offense
- Refusal to submit to a Blood Alcohol Content (BAC) test
- Conviction for reckless driving
- Any combination of three or more moving violations, "At Fault Accidents" or "Preventable Accidents" within the most recent three years
- Suspension, revocation or administrative restriction within the last three years
- Leaving the scene of an accident as defined by state laws
- At fault in a fatal accident
- Felony committed involving a vehicle
- Three or more "Company Vehicle" physical damage claims in any twelve-month period

Marginal or poor driving records will be determined based upon a case by case situation and may comprise of one violation or several violations combined. Emphasis will be placed on risk and liability to the City of Cody. Violations resulting in marginal or poor driving records and/or loss of the appropriate driving license may result in disciplinary

action up to and including termination of employment or reassignment of the employee by the Department Head or City Administrator.

#### **24.4 Safety**

All operators and their passengers of City-owned vehicles and equipment are required to properly and fully use all available safety devices including but not limited to safety belts, harnesses, glasses etc. Furthermore, operators of City-owned equipment and the City vehicle maintenance technicians will not tamper with, nor attempt to defeat the purpose of any vehicular safety device, except for servicing.

- Any malfunctioning City-owned vehicles or equipment shall be reported to the Division Supervisor. It is the Supervisor's responsibility to ensure that at no time shall a seriously defective piece of equipment or vehicle remain in use.
- Unattended vehicles must have the ignition key removed and be locked.
- The City of Cody Safety Committee may implement with the approval of the City Administrator certain safety policies in an effort to reduce costs and the number of incidents and accidents. All approved and implemented policies and procedures will be communicated in writing to all employees and may be placed in Appendix A of this manual. It is the employee's responsibility to adhere to each policy or procedure as written.

#### **24.5 Operation of Equipment**

All employees who operate equipment and vehicles will exercise good judgment in utilizing it and shall not drive or use the equipment so as to cause unfavorable comment or reflect discredit on the City.

Except in cases authorized by the City Administrator, or when acting under written contract with the City, no City-owned vehicles and equipment shall be operated by persons not employed by the City. Exceptions to this provision are for vehicle servicing, emergencies, occupant safety, or operation of a vehicle by a non-city employee on an authorized out-of-town City business trip.

Transportation of sick or injured persons in a department vehicle shall not be permitted except in cases of minor injury to a city employee or if a citizen/employee is seriously injured or ill and no other means of transportation is available. No City employee shall operate City-owned vehicles or equipment unless so authorized by the Department Head and/or Supervisor. Except in emergencies or for training or testing of job applicants, no supervisor shall direct or permit an unauthorized employee to operate City-owned motor equipment or any type of equipment for which the employee has not



been classified or trained to properly operate.

City-owned vehicles and equipment are provided for City purposes and business use only. Police Officers and on-call employees who are allowed to drive City vehicles (marked and unmarked) home are not permitted to use the vehicles for personal use while on or off duty.

#### **24.6 Take Home Vehicles**

Police Officers and employees designated on call by the appropriate Department Head will be allowed to drive an assigned vehicle home for purposes of responding while on call, provided that the employees are able to respond within a 20 minute response time. All employees not residing within a 20 minute response time will not be permitted to use the assigned vehicle during the time frame while on call.

No employee will be permitted to conduct any personal business while driving the city owned vehicle.

#### **24.7 On Call Status**

This group is composed of those positions that are necessary for operational supervision of municipal functions or call out on an emergency basis. **Vehicles are to be utilized only for the performance of specific job related functions** during times of regularly scheduled shifts, or hours of work. Employees may utilize their City-owned vehicles to travel to and from work as stated in the conditions outlined above. For purposes of this guideline, "on call" employees or "stand-by" employees will be defined as those employees who must remain in contact of Park County dispatchers and who reside within a 45 minute response time within the Cody City limits. Employees "on call" or on "stand-by" must not leave the 45 minute response area unless they are traveling out of town on pre-approved City business. An "on call" or "stand-by" employee out of town on City business shall designate a replacement prior to leaving the City limits. All policies and procedures outlined in the City's stand-by and call-out policy shall apply.

#### **24.8 Non-City Employee Vehicle Rules and Exceptions**

Non-City employees are not permitted to ride in or drive City-owned vehicles or use City-owned equipment except under the following circumstances.

- When necessary to conduct City business.
- As an authorized ride-along with proper indemnification and a signed waiver. In general, Police Ride-Alongs will not be permitted unless the Ride-Along is for business purposes. Examples of business purposes include but are not limited to chaplains, consultants, co-workers, visiting

peers, car-pooling with nearby communities for training purposes and elected officials.

- Emergency or unanticipated incidental use.
- Employees are reminded that City vehicles are not to be used to transport family members to and from day care, school, places of work or other locations. This type of activity is to be pre-planned by the employee.

#### **24.9 Storage at Authorized Facilities**

All city-owned motor vehicles and equipment shall be parked in a departmentally assigned location at the completion of operation. These locations are City Hall, Cody Auditorium, Parks Shop, Paul Stock Aquatics and Recreation Center, Streets and Electrical Shops and Maintenance Facilities, Draw Street Building, and the Park County Law Enforcement Center.

Vehicles assigned to City employees who are to be absent from the City for five or more working days on personal or business trips should, when possible, park their vehicle at the Vehicle Maintenance Facility.

#### **24.10 Alcoholic Beverages or Illegal Drugs**

Alcoholic beverages or Illegal Drugs are not allowed in City-owned vehicles at any time. Exception to this will be in the case of Police transporting it as evidence. Alcoholic beverages or Illegal Drugs shall not be consumed prior to driving a City vehicle. Refer to policies relating to drug and alcohol use.

#### **24.11 Assigned Use of City-owned vehicles**

Due to emergency situations and off-business hours response the City of Cody may assign properly equipped take home vehicles to the following positions: Administrative Services Director, Public Works Director, Police Chief, Assistant Police Chief, Police Officers, Parks, Recreation and Public Facilities Director, Water/Wastewater/Solid Waste and Transportation Superintendent, Streets and Vehicle Maintenance Superintendent, Parks Supervisor, Public Facilities Supervisor, Building Official, and Electrical Engineer. Because the assigned use of a City-owned vehicle is a benefit according to the Internal Revenue Service, employees who are assigned use of a City-owned vehicle will be taxed a fee per day for use of the vehicle. The fee to be taxed will be determined yearly as per the Internal Revenue Service guidelines. In addition, each employee must obtain an endorsement which provides coverage for driving a City-owned vehicle. The endorsement will cover the employee and the City during times that the employee is driving the City-owned vehicle to and from work and other times when the employee is not being compensated while driving the vehicle. The City Administrator, as requested by the Department Head, may make other vehicle

assignments on a temporary or permanent basis. Vehicle Allowances may be authorized during the budget process for other employees who may be required to travel on a regular basis on city business.

## **SECTION 25: BUSINESS TRAVEL**

In carrying out the duties and responsibilities of their respective positions, employees will often be required to travel in City-owned vehicles and equipment, both inside the City of Cody limits as well as out of town.

The City of Cody will only provide travel expense advances at the authorization of the City Administrator for unique and special purposes. The City of Cody will allow use of a City credit card or reimburse employees for reasonable business travel expenses incurred while on assignments away from the normal work location. All business travel must be approved in advance by the appropriate Department Head or City Administrator.

In general, employees should contact their supervisor for guidance and assistance on procedures related to travel arrangements, expense vouchers, reimbursement for specific expenses, or any other business travel issues. Employees whose travel plans have been approved are responsible for making sure their travel arrangements have been made.

Abuse of this business travel policy, including falsifying expense vouchers to reflect costs not incurred by the employee, can be grounds for disciplinary action, up to and including termination of employment.

### **25.1 Meals while traveling**

**25.1.1 Same Day Travel:** Employees traveling to and from the intended destination in the same day will not be allowed to have meals paid for by the City of Cody unless the meal receipts are turned into the employee's Department Head with the employee's timesheet and the employee is taxed on the value of the meal. Meals are considered fringe benefits or wages and must be taxed unless the employee is away from home overnight. This is in accordance with the Internal Revenue Service.

**25.1.2 Overnight Travel:** Employees traveling overnight will be eligible to have meals paid for without taxation.

**25.1.3 Reasonable Meal Allowance:** In general, it is customary for the employee to use

their best judgment when purchasing meals while conducting business for the City of Cody. The following figures are to be used as reasonable guidelines for meal purchases. It is understood by the City of Cody that occasionally it will not be possible to purchase meals within the guidelines outlined due to the location of the travel destination:

- |    |                 |                               |
|----|-----------------|-------------------------------|
| a. | Breakfast       | up to \$10.00, excluding tip  |
| b. | Lunch           | up to \$12.00, excluding tip  |
| c. | Dinner          | up to \$25.00, excluding tip  |
| d. | Daily Guideline | up to \$47.00, excluding tips |

**25.1.4 Meals Close to Cody:** The City of Cody will not pay for meals for employees traveling who are within 50 miles of Cody. The employee should wait to eat when they return home, unless special arrangements have been approved by the employee's Supervisor or Department Head. If the reason for the travel is in this location, then a meal is permitted and the employee is subject to the guidelines in sections 25.1.1 through 25.1.3.

**25.1.5 Meal Incidentals:** Employees should not purchase snacks or beverages with City funds while traveling. These items should be purchased with the employee's own funds. However, City funds can be used on purchasing snacks if they are purchased in lieu of a meal and are within the guidelines of section 25.1.3.

**25.1.6 Meal Tips:** Tips for servers should generally be no more than 15% to 20%.

**25.1.7 Alcoholic Beverages:** City Employees are not authorized to purchase alcoholic beverages with City funds at any time. If an employee chooses to order alcohol with their meal, the employee must pay for the alcohol with their own funds, and it must be on a separate receipt from the meal the City is purchasing on behalf of the employee. At no time shall a City of Cody employee order alcohol if driving a City of Cody vehicle.

### **25.2 Reporting Expenses while traveling:**

An itemized expenditure receipt must be provided for each purchase made by the employee while traveling in order for payment or reimbursement of travel or other business expenses to occur. A travel voucher depicting all receipts must be completed by the employee and approved by the Department Head upon the employee's return. The travel voucher shall be turned in to Accounts Payable for payment to vendors or reimbursement to the employee. Expenses for which a receipt is not provided will not be reimbursed or paid by the City.

### **25.3 Personal use of vehicle while traveling:**

If approved by the appropriate Department Head, an employee may use his/her own personal vehicle for business travel. However, use of personal automobiles in the performance of municipal business is entirely voluntary. The City of Cody does not provide insurance coverage for any employee who uses his/her personal auto for business purposes. Municipal employees who use their personal vehicles for business travel will be reimbursed for mileage at a rate set by the Governing Body, which will be the IRS established rate unless alternative formal action is taken by the Governing Body. Such reimbursement will follow the City Council meeting which approves the reimbursement voucher.

The City of Cody assumes no responsibility beyond allowing mileage reimbursement, and therefore it is the employee's responsibility to protect against damage to his/her automobile and legal liability in such form and amount as the employee deems adequate. It is suggested that those employees who have occasion to use their personal auto for business purposes carry a minimum coverage at the same level as the City of Cody's policies for bodily injury and property damage.

It is highly recommended that employees consult with their own insurance agent and consider carrying liability coverage which would insure avoidance of a situation which could potentially be a financial burden to the employee. It is also essential that employees who use their personal auto for municipal business properly inform their carrier accordingly to insure complete coverage.

Employees who are involved in an accident while traveling on business must promptly report the incident to their immediate supervisor. Vehicles owned, leased, or rented by the City may not be used for personal use without prior Department Head approval and may not be driven if alcoholic beverages, illegal drugs or prescribed drugs which prohibit driving have been consumed.

With prior Department Head approval, employees on business travel may be accompanied by family members or friends, when the presence of companions will not interfere with the successful completion of business objectives. Generally, employees are also permitted to combine personal travel with business travel, as long as time away from work is approved. Additional expenses arising from such non-business travel are the responsibility of the employee, as are expenses incurred because a family member or friend accompanies the employee.

### **SECTION 26: SAFETY**

To assist in providing a safe and healthful work environment for employees, customers,

and visitors, the City of Cody has established a workplace safety program. This program is a top priority for the City. The Department Heads and supervisory staff have responsibility for implementing, administering, monitoring, and evaluating the safety program within their relative departments. Its success depends on the alertness and personal commitment of all.

The City provides information to employees about workplace safety and health issues through regular internal communication channels such as supervisor-employee meetings, bulletin board postings, memos, or other written and electronic communications.

Employees and supervisors receive regular workplace safety training. The training covers potential safety and health hazards and safe work practices and procedures to eliminate or minimize hazards.

Some of the best safety improvement ideas come from within. Those employees with ideas, concerns, or suggestions for improved safety in the workplace are encouraged to raise them with their supervisor or Department Head, with another supervisor or to their division Safety Committee Representative. Reports and concerns about workplace safety issues may be made anonymously if the employee wishes. All reports can be made without fear of reprisal.

Each employee is expected to obey specified safety rules and procedures for their department and to exercise caution in all work activities. Employees must immediately report any unsafe condition to the appropriate supervisor or Department Head. Employees may refuse to work in unsafe work conditions without fear of reprisal if the unsafe conditions have been reported to his/her supervisor or Department Head. Employees who violate safety standards, who cause hazardous or dangerous situations, or who fail to report or, where appropriate, remedy such situations may be subject to disciplinary action, up to and including termination of employment.

In the case of accidents, incidents or injuries, regardless of how insignificant it may appear, employees are to immediately notify their supervisor or the Administrative Services office and to complete all required information in a prompt and timely manner. Such reports are necessary to comply with laws and to initiate insurance and workers' compensation benefits procedures where applicable.

Employees are also expected to address safety issues and concerns which they see when in the community. This may include stopping and fixing the issue immediately or securing a scene until it can be addressed by the appropriate staff.

## **SECTION 27: VISITORS IN THE WORKPLACE**

To provide for the safety and security of employees and the facilities of the City, only authorized visitors are allowed in or at the workplace. Restricting unauthorized visitors helps maintain safety standards, protects against theft, ensures security of equipment, protects confidential information, safeguards employee welfare, and avoids potential distractions and disturbances.

All visitors should enter City facilities at the main entrances. Authorized visitors will receive directions or be escorted to their destination. Employees are responsible for the reasonable conduct and safety of authorized visitors.

If an unauthorized individual is observed in City facilities, employees should immediately notify their supervisor or, if necessary, direct the individual to the main entrance.

## **SECTION 28: ACCESS TO PERSONNEL FILES**

The City of Cody maintains personnel files on each employee. The personnel files include such information as the employee's job application, resume, records of training, documentation of performance appraisals and salary increases, and other employment records. Personnel files are maintained by the Administrative Services Department. Medical information will be maintained separately from the employees' personnel files. Personnel files are the property of the City, and access to the information they contain is restricted as per state Statute 16-4-203 which reads, "Personnel files except those files shall be available to the duly elected and appointed officials who supervise the work of the person in interest. Applications, performance ratings and scholastic achievement data shall be available only to the person in interest and to the duly elected and appointed officials who supervise his work. Employment contracts, working agreements or other documents setting forth the terms and conditions of employment of public officials and employees are not considered part of a personnel file and shall be available for public inspection."

Employees who wish to review their own files should contact the Administrative Services Director or his/her designee, or City Administrator. With reasonable advance notice, employees may review their own personnel files in the City's offices and in the presence of an individual appointed by the City to maintain the files.

## **SECTION 29: DRUG AND ALCOHOL USE**

It is the City's intention to provide a drug-free, healthful, and safe workplace. To

promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner. To inform employees about important provisions of this policy, the City has established a drug-free awareness program. The program provides information on the dangers and effects of substance abuse in the workplace, resources available to employees, and consequences for violations of this policy. Employees with questions or concerns about substance dependency or abuse are encouraged to discuss these matters with their Supervisor, Department Head, City Administrator or the Administrative Services Director or his/her designee to receive assistance or referrals to appropriate resources in the area.

While on City premises, in City uniforms or vehicles, while on scheduled stand-by time and while conducting business-related activities off City premises, no employee may use, possess, distribute, sell, or be under the influence of illegal drugs or alcohol. The authorized use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger employees or other individuals in the workplace. Employees must report the prescribed use of medications that may impair judgment or the ability to perform the job duties to their supervisor. The supervisor may authorize temporary work assignments when appropriate.

All employees are expected to be in a state of mind and physical condition fit to complete their assigned duties safely and competently during work hours. No employee shall report to work or remain on duty while having any detectable level of alcohol. Employees shall not drink any intoxicating beverage on duty. Employees shall not, at any time while on duty, be under the influence of an intoxicating substance. Employees shall not report for work or make contact with the general public while working when an odor of an intoxicating beverage is on their breath or person. Any employee violating these expectations shall be subject to disciplinary action up to and including termination.

In the event of an emergency call-out, each employee must determine his/her fitness for work if alcohol has been consumed. No adverse actions will be taken if, in an emergency call-out, the employee believes him/her to be incapacitated for work, says so, or is told so by a Supervisor or Department Head, before actually going on duty. Under no circumstances will an employee who is assigned to stand-by status consume alcoholic beverages while on stand-by. Employees shall refer to Section 30.4 for specific guidelines.

Violations of this policy may lead to disciplinary action, up to and including termination of employment, and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences.



Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to use accrued vacation, compensatory, sick or personal leave or to take unpaid time off to participate in a rehabilitation or treatment program. Leave may be granted by the City Administrator if the employee agrees in writing to abstain from use of prohibited substances; abides by all City policies, rules, and prohibitions relating to conduct in the workplace; abide by any follow-up requirements; and if granting the leave will not cause the City any undue hardship. The City may require additional monitoring as a condition of the employee's return to work to determine the employee's continued ability to perform the functions of his or her position.

Under the Drug-Free Workplace Act, an employee who performs work for a government contract or grant must notify the City of a criminal conviction for drug-related activity occurring in the workplace. The report must be made within five days of the conviction.

The City of Cody maintains the right to require an employee to submit to a drug and alcohol test if such use is suspected or if other reasonable circumstances warrant such a test. An employee required to submit to a drug and alcohol test shall immediately be placed on administrative leave with pay for the remainder of his/her work shift or until the results are obtained. When an employee is ordered to take a test to determine the presence of alcohol and/or controlled substances in his/her system, he/she shall take the test and/or shall admit to having used a controlled substance or alcohol. If the employee refuses, a record of the refusal will be kept in his/her personnel file along with a report from the supervisor describing the actions and/or incidents which led to the test requirement. Refusal to submit to a test will result in disciplinary action, up to and including termination.

If a test does not reveal the presence of alcohol or a controlled substance, it shall be presumed the employee had not used alcohol or a controlled substance and the Supervisor's report shall not be retained as part of the employee's personnel file nor made the basis of any disciplinary action against the employee and the employee's Administrative Leave shall be rescinded. If the test reveals the presence of alcohol, the employee's supervisor will investigate the circumstances and make recommendations for disciplinary action, up to and including termination of employment. If an employee is referred to an appropriate agency for drug and alcohol assessment and treatment, a written record of this action shall be included in the employee's personnel file. A written agreement, including follow-up testing and monitoring, will be signed by the employee prior to return to work. The employee must adhere to the stipulations of this agreement in order to continue in the position.

An employee suspected of having alcohol and/or a controlled substance in his/her system during work hours shall be directed to provide a sample of blood, breath or urine for analysis at a laboratory specified by the City of Cody. The City will absorb the cost for the test. At the employee's discretion, he/she may request an additional test, provided he/she agrees to pay any additional cost. If the test is not performed within one hour of the order, due to the fault of the employee, then and in that event, it shall be presumed the employee had used a controlled substance or alcohol as asserted in the written report of the supervisor. The employee will be subject to disciplinary action, up to and including termination.

Employees required to maintain a commercial driver's license in their employment with the City of Cody will be subject to all testing and compliance requirements of the Federal Omnibus Transportation Employee Testing Act of 1991 and any amendments to the Act. The policy regarding this testing program follows this drug and alcohol use policy. Positive tests will be further investigated and will result in disciplinary action up to and including termination.

Employees with questions on this policy or issues related to drug or alcohol use in the workplace may raise their concerns with their Supervisor, Department Head, Administrative Services Director or the City Administrator without fear of reprisal.

### **SECTION 30: DRUG AND ALCOHOL TESTING POLICY FOR COMMERCIAL DRIVER'S LICENSE**

It is the City of Cody's policy that its drivers should be free from drug and alcohol abuse. Consequently, the use of illegal drugs or improper use of alcohol by drivers is prohibited. The overall goal of drug and alcohol testing is to ensure a drug-free and alcohol-free transportation environment and to reduce accidents, injuries and fatalities. The requirements of this policy are in addition to other requirements established by federal and state law and City of Cody policy regarding the use of alcohol and drugs. In some instances, those laws or policies may be more restrictive than the requirements set out in this policy.

The City of Cody is required under the provisions of the Federal Omnibus Transportation Employee Testing Act of 1991 to implement a drug and alcohol testing program for all persons subject to commercial driver's license requirements. This program includes drug and alcohol testing such drivers for reasons of reasonable suspicion, random, post-accident, return-to-duty, follow-up and pre-employment drug testing. In addition, the City of Cody is responsible for maintaining appropriate records, and notifying drivers of the requirements and consequences of the program.

**30.1 Implementation Date:** The testing program referred to in this policy was implemented March 1, 1996.

**30.2 Definitions:** For the purpose of this policy, the following terms are defined.

**Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl and isopropyl.

**Driver:** Any person who operates a commercial motor vehicle. This includes full-time, regularly employed drivers; casual, intermittent or occasional drivers, leased drivers and independent, owner-operator contractors.

**Drug:** Includes any of the following controlled substances; marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP):

**Medical Review Officer (MRO):** A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the City's drug testing program who meets the qualifications as listed in 49 CFR 40.3.

**Regulations:** Those regulations promulgated by the Department of Transportation found at 49 CFR part 40, and the regulations promulgated by the Federal Highway Administration found at 49 CFR part 332, as from time to time amended.

**Safety-Sensitive Function:** Includes all on-duty functions performed from the time a driver begins work or is required to be ready to work. It includes driving; waiting to be dispatched, inspecting and servicing equipment; supervising, performing or assisting in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle; performing driver requirements related to accidents; and performing any other work for the City of Cody or paid work for any other entity.

**Substance Abuse Professional:** A licensed physician or certified psychologist, social worker, employee assistance professional or certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

### **30.3 Program Coordinator**

The City of Cody has designated the Administrative Services Director or his/her designee to act as the program coordinator to implement the City's alcohol and drug testing program within the guidelines of this policy.

### **30.4 Alcohol and Drug Prohibitions**

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having any detectable blood alcohol concentration. No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol or drugs. No driver shall use alcohol or drugs while performing safety-sensitive functions. No driver shall perform safety-sensitive functions within four (4) hours after using alcohol and until the employee's detectable blood alcohol concentration is zero. No driver required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he or she undergoes a post-accident alcohol test, whichever occurs first.

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to operator a commercial motor vehicle. No driver shall report for duty, remain on duty or perform a safety-sensitive function if the driver tests positive for drugs. No driver shall refuse to submit to a controlled substance or alcohol test when provided for under this policy or the Federal Regulations.

### **30.5 Pre-Employment Testing**

Drug tests shall be conducted in accordance with the Regulations before any driver is permitted to perform a safety-sensitive function for the City of Cody. Testing for newly-hired drivers shall be conducted after the offer of employment but before employment commences. Offers of employment are contingent on this test result. A refusal to submit to drug testing and/or refusal to release information as required by the City of Cody shall remove the applicant from employment consideration. Such testing will also be required of any employee transferring into a covered position.

Exceptions may be made for drivers who have:

1. Participated in a valid drug testing program required by law within the preceding thirty days; and
2. While participating in that program, have either drug tested within the past six (6) months or have participated in a random selection program for the previous twelve (12) months; and
3. No prior employer has knowledge of a violation within the previous six (6) months, provided that the City of Cody has been able to make all verifications required by law.

### **30.6 Post Accident Testing**

Alcohol and drug tests shall be conducted as soon as practicable after an accident on a driver who:

1. Was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life; or
2. Receives a citation under state or local law for a moving traffic violation arising from a qualifying accident. A qualifying accident includes: (a) bodily injury requiring immediate treatment away from the accident scene, or (b) disabling damage to one or more vehicles requiring the vehicle to be towed or transported away from the scene of the accident.

Drivers shall make themselves readily available for testing, unless such driver has the need for immediate medical attention. No driver shall use alcohol for eight hours after the accident, or until after she/he undergoes a post accident alcohol test, whichever comes first. An alcohol test must be performed within eight hours following an accident and a drug test within 32 hours. Drivers must follow all-post accident instructions given by the City of Cody.

Post-accident testing requirements may be fulfilled by properly administered tests conducted by federal, state and/or local law enforcement officials as long as the results of those tests are provided to the City of Cody.

### **30.7 Random Testing**

Alcohol and drug testing shall be conducted on a random basis at unannounced times throughout the year in accordance with the Federal Regulations. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive functions. Drivers shall be selected by a scientifically valid random process, and each driver shall have an equal chance of being tested each time selections are made. Random selections shall be spread throughout the year. Drivers who have been told of their random selection shall, from the point of being informed, devote every action to providing a specimen. Any action that impedes the proper administration of a test shall be considered refusal to test.

The City of Cody contracts with an independent Pathology Consultant to provide the random testing requirements. City staff does not randomly select employees to test. The City of Cody is required by law to notify those employees selected and make sure they are tested within the time frame assigned by the Pathology Consultants.

### **30.8 Reasonable Suspicion Testing**

Any qualified supervisor or City of Cody administrative staff member who has reasonable suspicion to believe an employee has violated the City of Cody's alcohol or drug prohibitions shall require the employee to submit to a reasonable suspicion test, which may be by blood, breath or urine as directed by the City Administrator or Administrative Services Director. A qualified supervisor or administrative staff member

must be a person who has been properly trained, in accordance with federal regulations, to make a determination that reasonable suspicion exists. The reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indication of the chronic and withdrawal effects of drugs.

Alcohol testing is authorized for reasonable suspicion only if the required observations are made just before, during or just after the period of the work day when the driver must comply with alcohol prohibitions. An alcohol test may not be conducted by the person who determined reasonable suspicion exists to conduct the test. If an alcohol test is not administered within two (2) hours of a determination of reasonable suspicion, the City of Cody shall prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests shall terminate after eight (8) hours, and the City of Cody will state in the record the reasons for not administering the test.

A qualified supervisor or City administrative staff member who makes observations leading to a reasonable suspicion test shall make a written record of his/her observations within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

### **30.9 Return to Duty Testing**

An alcohol and/or drug test shall be conducted when a driver who has violated the City of Cody's alcohol or drug prohibition returns to performing safety-sensitive duties. Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return-to-duty test produces a verified blood alcohol concentration test result of zero. Employees whose conduct involved drugs cannot return to duty in a safety-sensitive function until the return-to-duty test produces a verified negative result.

### **30.10 Follow-up Testing**

A driver who violates the City of Cody's alcohol or drug prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving an alcohol or drug problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with the law. Follow-up testing shall be conducted just before, during or just after the time when the driver is performing safety-sensitive functions.

### **30.11 Refusal to Submit to Testing**

No driver shall refuse to submit to any of the tests. An employee will be considered to refuse to submit when she/he fails to provide adequate breath or urine for testing when

notified of the need to do so, or when she/he engages in conduct that clearly obstructs the testing process. Such refusal will be treated as if the City of Cody received a positive test and is subject to further disciplinary action up to and including termination.

### **30.12 Testing Procedures**

The City of Cody shall follow the federal guidelines and standards of the Department of Health and Humans Services and the Department of Transportation regarding testing and laboratory procedures. This shall include a selection of sites with appropriately trained personnel for alcohol and drug testing, selection analysis, and selection of a Medical Review Officer to verify laboratory drug test results. The City of Cody's drug and alcohol testing program shall provide individual privacy in the collection of specimen samples to the maximum extent possible. The specimen collection procedures and chain of custody shall ensure that specimen security, proper identification and integrity are not compromised.

In the event a driver tests positive for a controlled substance, the driver shall have the right to have the split specimen (collected at the same time as the tested specimen) retested, provided the driver provides written notice to the Medical Review Officer (MRO) within 72 hours of being notified of the positive result. This retest shall be at the expense of the driver.

### **30.13 Enforcement**

Employees whose conduct involved alcohol and drug use cannot return to duty in a safety-sensitive function until the return-to-duty test produces the required result. A driver who is tested and found to have an alcohol concentration of 0.02 or greater, but less than 0.04 shall not perform or continue to perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours after the test was administered.

Further employment actions up to and including termination may be instigated in accordance with the Drug Free Workplace Act of 1988 (L.L. 1010-226) other state and federal laws, and City of Cody policy. In the event a driver tests positive for drugs, or has a confirmed alcohol concentration of 0.04 or greater, or violates a prohibited conduct, the City of Cody does not guarantee that a position will be held open for a driver in the event they become re-qualified.

### **30.14 Rehabilitation**

The City of Cody shall provide for the identification of a Substance Abuse Professional (SAP) for treatment for those employees who have violated the prohibitions of the regulations. This information shall include the names, addresses and telephone numbers of SAPs and counseling and treatment programs. Any rehabilitation or

evaluation sought shall be at the expense of the driver.

### **30.15 Employee Records**

Employees' alcohol and drug test results and records shall be maintained in strict confidentiality and released only in accordance with the law. Upon written request, a driver shall receive copies of any records pertaining to his or her use of alcohol or drugs, including any records pertaining to his/her tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver. Test records shall be maintained with the separate medical files of each employee.

### **30.16 Government Entity Records and Reports**

The City of Cody shall maintain records of its alcohol and drug prevention programs as required by federal law in 49 CFR 382.401.

### **30.17 Not a Contract**

This policy does not create a contract, either expressed or implied. The City of Cody may change the policy at any time, without notice.

## **SECTION 31: SEXUAL AND OTHER UNLAWFUL HARASSMENT**

The City of Cody is committed to providing a safe work environment that is free of discrimination and harassment. Harassment is defined as verbal or physical conduct that belittles, shows hostility, or aversion toward an individual because of that person's race, skin color, religion, gender, national origin, age, disability or other federal and state protected classifications. Harassment can also occur if conduct is directed toward a person's relatives, friends or associates. Harassment does one or more of the following:

- Creates an intimidating, hostile, or offensive work environment.
- Has the purpose or effect of unreasonably interfering with an individual's work performance.
- Otherwise adversely affects an individual's employment opportunities.

The City of Cody's employees deserve to work in an environment that provides the opportunity to conduct their duties efficiently and to deliver service to the public without fear or intimidation. In achieving this goal, the City as an employer wishes to promote the health, well being and mutual respect of all of its employees. Therefore, harassment of any kind by supervisors, department heads, or co-workers will not be tolerated within the organization or toward members of the public by City employees. In addition, the City will endeavor to protect employees, to the extent possible, from



reported harassment by non-employees in the workplace.

### **31.1 Harassing Conduct in General**

Harassing conduct includes abusive words, such as epithets, slurs, and negative stereotyping, or threatening, intimidating, or hostile acts including jokes or pranks that are hostile or demeaning. Harassing conduct also includes written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of race, color, religion, gender, national origin, age, disability or other federal and state protected classifications and is displayed on walls, bulletin boards, e-mails or other locations in the workplace or is circulated in the workplace.

### **31.2 Identifying Sexual Harassment Conduct**

Sexual harassment can take many forms. The two most common forms are described as *quid pro quo* sexual harassment and *hostile work environment* sexual harassment.

- *Quid pro quo* is Latin meaning “something for something”. When an employee is asked, either directly or indirectly, to submit to a sexual advance in exchange for some benefit at work such as a promotion or a pay advance, or is denied said benefit, *quid pro quo* has occurred.
- A *hostile work environment* occurs when the constant sexual or gender-based harassing activity or comment interferes with an employee’s ability to do his or her job and makes the workplace intolerable.
- Other forms of sexual harassment include harassment by an employee toward non-employees such as City customers, Council members, volunteers or vendors. An employee’s sexual conduct in the course of employment that is observed by and offensive to, another employee is also harassment. Since customers, vendors or other third parties can subject City employees to sexual harassment, the City will take appropriate action to protect its employees from sexual harassment by non-employees. Sexual harassment may also occur between members of the same sex.

Common situations that may involve sexual harassment include:

- Pinups in the workplace. Pinups, cartoons, e-mails and calendars containing sexual material such as centerfolds, nude or sexual pictures, are not allowed on any City property except when held for evidence in criminal or administrative investigations.
- Engaging in any activity regarding romantic relationships or dating is strictly prohibited at work. This includes asking co-workers out on a date. Any personal relationships must be developed outside of working hours and should not interfere or be pursued during working hours. Dating between supervisors and subordinates is strongly discouraged and often may lead to sexual harassment issues.

- Rude treatment that is gender specific. A male supervisor who treats women rudely or a female supervisor who treats men rudely or constantly demeans the ability of one gender to perform particular work, is targeting one gender with mistreatment. This form of harassment includes non-verbal behaviors such as pranks, suggestive looks or leering including obscene or lewd sexual comments, jokes or innuendoes. Many people find slang, names or labels such as "honey," "sweetie," "boy," "girl" deeply offensive. Talking about or calling attention to another employee's body or sexual characteristics in a negative or embarrassing way may create a harassing atmosphere, just as making comments about a person's appearance or telling jokes about another employee's gender, race or sexual orientation or sexuality is always inappropriate. Sexually oriented comments are generally inappropriate in the workplace.
- Intentional touching. Even a single act of intentional and unwelcome touching of a sexual nature may be sexual harassment. Certainly, repeated acts constitute sexual harassment. Any unwanted touching or physical behavior such as pats, squeezes, shoulder or neck rubs or brushing against someone's body may be perceived as sexual harassment and may contribute to a hostile work environment.

Sexual harassment is determined on a case-by-case basis. Even though acts that are offensive to one employee may not be offensive to another, some acts are prohibited regardless and are always inappropriate.

### **31.3 Reporting Harassment**

The reporting options are the same for sexual harassment or any other harassment claim. Any employee who believes they are a victim of harassment of any kind should provide a written report their concerns to their immediate Supervisor, Department Head or Administrative Services Director immediately. If the report of harassment is made verbally, the employee may be requested to provide a written statement. Employees, who are harassed or have witnessed harassment, if appropriate, should request it to stop and then discuss their concerns with a non-involved Supervisor (supervisor who is not the subject of the complaint), any Department Head, the Administrative Services Director or the City Administrator. All complaints of harassment will be forwarded to the Administrative Services Director or his/her designee and investigated promptly. If a Supervisor observes or becomes aware of any harassing behavior he or she must report it immediately to his/her Department Head and the Administrative Services Director so that an investigation of the situation can be pursued. Employee's request for confidentiality for anonymity shall not be granted at least for investigative purposes; however the City of Cody will take all steps to protect the complainant from retaliation and unnecessary disclosure of the situation. The

Administrative Services Director or his/her designee will work with the employee's Supervisor and or Department Head to take appropriate disciplinary or corrective actions as necessary. If a harassment charge is fabricated the complainant is subject to the same disciplinary action as other employees who commit acts of dishonesty.

#### **31.4 Investigating Harassment:**

Generally, the Administrative Services Director or his/her designee will direct the investigation and in all cases a thorough investigation will be made. In the event the Administrative Services Director or his/her designee is a party to the complaint the City Administrator will designate how the investigation is to proceed. The City of Cody reserves the right to hire an outside consultant to perform the investigation if it is deemed in the best interest of the complainant and/or the City. All investigations will be documented and the documentation maintained in a confidential file. Written records, including witness statements, will be made during all steps of the investigation. Copies of notes, diaries, tapes, or other relevant physical evidence will be obtained when available. Confidentiality will be preserved to the fullest extent possible, however information may be revealed in order to investigate the complaint.

A confidential interview will be conducted with the complainant, any potential witnesses or other complainants, and the accused harasser. The alleged harasser will be told that a charge of harassment has been made and that pursuant to this policy an investigation is being conducted. Details of the allegations will be obtained including dates, times, places, specific incidents and whether anyone else had been told about or been involved in the harassment. After the investigation is complete, the Administrative Services Director, City Administrator, and the Department Head will determine whether the allegations of harassment are substantiated and if so what corrective action should be taken. The determination will be based upon if the actions alleged were unwelcome, inappropriate and/or against policy.

The complaining party, accused, and all witnesses should be advised not to discuss the matter with anyone else. In some cases, interim action will be taken during the course of the investigation to eliminate contact to the extent possible between the parties involved in the incident. This type of action may include ordering the parties not to have any contact with each other, temporarily changing work assignments, schedules or suspending an employee with pay during the course of the investigation. Interim actions are intended to be of short duration, since the investigation under most circumstances should be completed in a matter of days.

Under no circumstances will an employee threaten or retaliate against an employee who alleges sexual or any other type of harassment. Threats and retaliation are violations of this policy and are subject to formal disciplinary action up to and including

termination. Failure to cooperate with an investigation of sexual harassment may constitute a violation of this policy. Failure of a supervisor to report instances of harassment, even if no formal complaint is made, may expose the supervisor to disciplinary action up to and including termination.

If the results of a harassment investigation are inconclusive, all involved parties will be notified of the outcome and the reasons for it. The complainant will be advised to report any further incidents and the supervisor will monitor the situation. The terms of the sexual harassment policy will be discussed with the accused.

### **31.5 Discipline**

Violators of this policy will be subject to the full range of the City's Disciplinary Actions Policy options, up to and including termination. The severity of the punishment will be consistent with the seriousness of the misconduct. The complainant will be notified of the actions taken against the accused and will be contacted on a regular basis to insure no further harassment occurs. The complainant's non-involved immediate supervisor will be responsible for monitoring the post-discipline situation.

## **SECTION 32: VIOLENCE IN THE WORKPLACE**

The City of Cody is committed to creating and maintaining a working environment for all employees that is free of violence. Threats and acts of violence are prohibited in the workplace and will result in disciplinary action up to and including termination.

**Except as may be needed as a condition of employment:**

- \* No employee shall bring into any City work site or facility any weapon or dangerous instrument as defined herein.
- \* No employee shall use, attempt to use, or threaten to use any such weapon or dangerous instrument while working for the City of Cody.
- \* No employee shall cause or threaten to cause the physical injury or death to any individual while working for the City of Cody.
- \* No employee shall exhibit any threat, behavior or action which is physically assaultive or which may be interpreted by a reasonable person to carry the potential to harm or endanger the safety of others; result in an act of aggression; or destroy or damage property.

Weapons may include firearms (loaded or unloaded), knives (excluding pen knives, small pocket knives or tools containing knives, such as "leatherman" tools), batons, night sticks, martial arts weapons or electronic defense weapons. Dangerous instruments include any instrument, article, or substance that, under the

circumstances, is capable of causing death or physical injury. Tools of employment are to be used for their designed purpose and never as a dangerous instrument.

There is no reasonable expectation of privacy with respect to weapons and dangerous items in the workplace. Such items may be confiscated.

Each and every threat or act of violence will be taken seriously. Anyone observing or experiencing violence or threats of violence shall immediately report the relevant information to their Supervisor, Department Head or Administrative Services Director or his/her designee for investigation and follow-up. Investigations will be conducted as outlined in the City's Sexual and Other Unlawful Harassment Policy.

### **SECTION 33: CONFLICT RESOLUTION PROCEDURE**

A conflict may be defined to include, but is not limited to, any dispute or difference of opinion on such matters as employee-supervisor relations, working conditions, granting of leave time, and duty assignments. This conflict resolution procedure does not apply in the case of formal disciplinary action, which can be appealed as outlined in the Appeals portion of the Disciplinary Policy.

The City of Cody recognizes the meaningful value and importance of full discussion in resolving misunderstandings and preserving good relations between management and employees. Accordingly, the City believes the following procedure will insure that complaints receive full consideration. Should a condition exist which an employee feels is unsatisfactory, it is important that he/she bring it to the attention of their supervisor, Department Head, Administrative Services Director or other appropriate person in the proper manner.

#### **33.1 Resolution Process**

- A. If an employee has a conflict or wishes to complain, every effort should be made to resolve the problem by informal means at the lowest possible level, i.e., addressing the problem with the immediate supervisor or Department Head. This should be done within five (5) working days after occurrence of, or knowledge of, the conflict occurring. If informal means does not bring a solution to the situation, the employee must submit a written report of the conflict to his/her supervisor or Department Head within ten days of the problem's occurrence. If the supervisor or Department Head believes no action is warranted or possible, the employee shall receive a written explanation as to the reasoning of such

decision within ten days of receiving the employee's written report. Where action is warranted or required the Supervisor or Department Head shall notify the employee in writing that further investigation and/or consideration is necessary and will be completed within the following ten days.

- B. If an employee feels his/her complaint has not received adequate attention, he/she may direct the complaint to the Administrative Services Director, City Administrator or other designated agent.

Such complaints must be made in writing, within five (5) days of receiving the answer provided in "A" above. The Administrative Services Director, City Administrator or designated agent will review the complaint with the supervisor and Department Head and arrange a meeting with the employee within five (5) business days of receiving the complaint. At this step the Administrative Services Director, City Administrator or designated agent may make a final decision in the matter. The employee shall be advised in writing of the decision within five (5) business days of the meeting.

- C. All employees are assured every effort will be made to resolve problems. Under no circumstances will an employee be retaliated against for presenting a complaint to their supervisor, Department Head, Administrative Services Director, City Administrator or other designated agent in accordance with the conflict resolution procedure set forth above.

## **SECTION 34: SEPARATION FROM EMPLOYMENT**

Separation from employment is an inevitable part of personnel activity within any organization, and most reasons for termination are routine. This policy defines the types of employment separation which may occur and the effect of separation on benefits and continuous service. This policy will apply to all employees including full-time, regular part-time, probationary, provisional and temporary employees.

### **34.1 Voluntary Separation:**

Voluntary separation occurs when the separation is initiated by the employee. Examples include:

- A. Written or oral resignation;
- B. Unauthorized absence from work for three consecutive working days;
- C. Failure to return from an approved leave of absence at the expiration of the leave;
- D. When all accrued paid leave time has been utilized and an immediate return to work has not been scheduled and approved.
- F. Retirement.

Employees wishing to voluntarily terminate employment with the City are expected to provide a written resignation to their supervisor or Department Head at least 10 business days prior to the anticipated separation date. The resignation letter will remain part of the employee's personnel file. Failure to provide sufficient notice may result in his/her not being eligible for future reinstatement privileges where applicable. Failure to provide sufficient notice will forfeit any sick leave buy-out that the employee would have been eligible to receive.

#### **34.2 Involuntary Separation:**

Involuntary separation occurs when the separation is not initiated by the employee. Examples include:

- A. Reduction in Force (RIF) - on the basis of the City determining that adequate funding is no longer available and at the discretion of the City Administrator, with the concurrence of the Administrative Services Director and in consultation with the City Attorney.  
  
RIF'd employees will remain on a list kept by the Administrative Services Director for a period of two years and will be eligible for re-employment.
- B. Termination for cause including reductions in force as outlined in the Disciplinary Actions policy of this manual.
- C. Death of the Employee.
- D. Disability on the basis of medical evidence, an employee is no longer able to return within the Family and Medical Leave Act time period and/or accrued sick leave or is no longer able to perform the essential functions of his/her position even with reasonable accommodations.
- E. Non-Disciplinary Termination - on the basis of when an employee becomes unable to perform the essential functions of his/her job for whatever reason, including but not limited to, injury or illness, mental or emotional problems, etc., the City may pursue non-disciplinary termination.

The City may conduct exit interviews with part-time and full-time employees when employment ends. The exit interview will afford an opportunity to discuss such issues as benefits, reasons for leaving, improvements that the City of Cody could make on behalf of its employees, benefit conversion privileges, repayment of outstanding debts to the City, or return of City-owned property.

Employee benefits will be affected by employment termination in the following manner. All accrued, vested benefits that are due and payable at termination will be paid. Depending on the rules and regulations of each benefit, some benefits may be continued at the employee's expense if the employee so chooses. The employee will be notified in writing of the benefits that may be continued and of the terms, conditions, and limitations of such continuance.

### **SECTION 35: DISCIPLINARY ACTIONS AND APPEAL PROCEDURE**

Depending on the severity of the infraction and the employee's past job performance, disciplinary action may take the form of oral reprimand, written reprimand, suspension without pay or termination. The outlined forms of disciplinary action are not mandatory steps and the City reserves the right to impose any form of disciplinary action up to and including termination at any time due to the severity of the infraction. The City Administrator or his/her designated representative may assume the responsibility for administering official oral reprimands, written reprimands, suspensions or terminations as appropriate. Disciplinary action may be taken for, but is not necessarily limited to, the following:

- Violation of any State Statute, City Ordinance, Federal Law or any personnel policy of the City of Cody or violation of other operation policies of the City of Cody.
- Neglect of duties or inability to perform assigned job duties in an efficient and satisfactory manner.
- Insubordination or other disrespectful conduct.
- Misconduct, negligence, horse play, or improper conduct.
- Fighting or threatening violence in the workplace.
- Failure to comply with reasonable directives and assignments made by supervisors.
- Sexual or other unlawful or unwelcome harassment.
- Theft, inappropriate removal or possession or intentional destruction of City property, another employee's property, or a member of the public's property.
- Smoking in prohibited areas.



- Being under the influence of intoxicants, non-prescribed drugs or illegal drugs while on duty, failing to report the use of or to follow the restrictions of prescribed medications that impair judgment or impact the employee's ability to perform the essential functions of their position. Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating City-owned vehicles or equipment.
- Falsification of timekeeping or other records, or falsification or misuse of leave benefits.
- Acceptance of any bribe, gift, token, money or other thing of value intended as an inducement to perform or refrain from performing any official act, or any action of extortion or other means of obtaining money or anything of value through the employee's position.
- Excessive tardiness or any absence without approval or notice.
- Lying to supervisors, employees, members of the public or public officials or deliberately misrepresenting or withholding relative or important business information.
- Unauthorized use of telephones, mail systems, computers or other employer-owned equipment or tools.
- Improper or unauthorized release of confidential information.
- Unsatisfactory performance or conduct.

### **35.1 Types of Disciplinary Action**

- 35.1.1 Oral reprimand:** An oral reprimand may be given by the employee's Supervisor or Department Head. The oral reprimand shall address the specific infraction(s) and means of correction the employee must take to avoid future infraction(s). It will also include likely consequences which will occur if the infraction continues.
- 35.1.2 Written reprimand:** A written reprimand may be given and shall be prepared by the Supervisor or Department Head and approved by the Administrative Services Director or his/her designee and/or City Administrator. The written reprimand shall address the specific infraction(s) and means of correction and shall be considered in the preparation of the employee's job performance evaluations and determination of salary increases. It shall include likely consequences if the behavior or infraction continues. The employee may request an informal meeting with the City Administrator or his/her designated agent within ten days of the written reprimand.
- 35.1.3 Suspension:** In the event of a serious infraction or repeated infractions by an employee, the City Administrator, with concurrence of the

Administrative Services Director and Department Head or his/her designees may suspend the employee without pay. Prior to the effective date of the suspension (except in an emergency when immediate action is required), the employee shall be notified in writing of the proposed action, the effective date, the reasons therefore and their right to appeal. The City Administrator or his/her designee may place an employee on paid administrative suspension during an internal investigation.

- 35.1.4 Termination and Demotion:** An employee may be terminated or demoted by the City Administrator or his/her designee upon recommendation of the employee's Supervisor or Department Head and the concurrence of the Administrative Services Director or his/her designee for an infraction of a severe nature, a repeated infraction following earlier disciplinary action or a proven inability to successfully perform the duties of the position. Notice of termination or demotion shall be in writing, stating the specific details of the infraction(s), earlier disciplinary action taken for other, similar infraction(s) (if appropriate), reasons for the termination or demotion action, the effective date, and notice of the right to appeal the action. The reasons for termination or demotion shall be documented, and a copy given to the employee, who shall initial or sign, and date the documentation to acknowledge receipt only. The documentation shall be included in the employee's permanent personnel file. Under no circumstance will an employee be terminated without an opportunity to provide information regarding the allegations to the City Administrator or his/her designee.

A combination of any of the above disciplinary actions may be taken at the recommendation of the Department Head and approved by the City Administrator or his/her designee and the concurrence of the Administrative Services Director or his/her designee.

## 35.2 Appeal Procedure

Regular full-time and part-time employees of the City of Cody shall have the right to appeal an adverse employment decision if the adverse employment decision consists of a suspension without pay, demotion and/or termination of employment. This appeal procedure shall not apply to provisional employees, temporary employees, probationary employees, or appointees of the Governing Body.

An employee shall have ten (10) calendar days after receipt of written notification of the disciplinary action to deliver a written request for an appeal. The written request for an appeal must be submitted to the City Administrator. The request for appeal shall state the employee's name, the adverse decision being appealed, and a short statement of why the employee does not agree with the decision.

The employee shall notify the City of Cody by delivering to the City Administrator, within five (5) calendar days of the submission of the written request for appeal, a written statement whether the employee intends to have legal counsel present during the appeal.

At least seven (7) calendar days prior to the hearing both parties must submit to the governing body, via the Mayor, and must submit to each other, a list of all witnesses with a summary of their anticipated testimony, together with any and all documents, exhibits and other items which the party intends to submit in support of their position during the appeal hearing. The parties shall not submit written briefs, outlines or other argumentative documents which explain the parties' position on appeal at this time. A Hearing Examiner, appointed by the Governing Body may request such documents at a later time.

A hearing will be scheduled not later than thirty (30) days from the date upon which the employee has filed the written request for appeal, except upon mutual agreement of both parties.

The hearing shall be closed to the public unless the affected employee requests in writing that the hearing be open to the public. Such request shall include consent to the release of the employee's personnel files and a waiver of the application of W.S.16-4-203(d) as it pertains to the appeal proceedings.

The employee shall have the right to be represented by an attorney chosen and hired by the employee; the right to confront and cross-examine witnesses presented by the City against the employee; the right to subpoena and present witnesses in support of the employee's case; and the right to offer evidence on behalf of the employee.

Where oral testimony of witnesses is taken in a hearing under these rules, the testimony shall be reported either by a recording device or a by certified court reporter. In either case, the City shall bear the expense of such recording or reporting. A transcription of the proceeding or any part thereof shall be at the cost and expense of the party

requesting the same.

The City Attorney may represent the administration in presenting the case.

Except as otherwise specified below, the Governing Body shall appoint an attorney, other than the City Attorney to act as the Hearing Examiner to conduct the appeal hearing and to make his or her recommendations to the Governing Body at the conclusion of any such hearing. The Hearing Examiner shall be the presiding officer at the hearing and shall conduct all proceedings in an impartial manner. The Hearing Examiner shall be a qualified member of the Bar of Wyoming. The Hearing Examiner shall make recommended findings of fact and conclusions of law to the Governing Body. The hearing examiner shall be hired by the Governing Body and shall be entitled to a reasonable fee for services and reimbursement for reasonable expenses incurred in connection therewith, but shall not be considered an employee of the City, but rather an independent contractor. The impartial Hearing Examiner shall not be an employee of the City or a person with a personal or professional interest in the case at hearing, nor be biased or prejudiced against any party at the hearing.

The Hearing Examiner shall issue recommended findings of fact and conclusions of law within twenty (20) calendar days following the hearing to the Governing Body. The Governing Body shall act on the recommended findings of fact and conclusions of law within ten (10) calendar days from receiving the recommended findings of fact and conclusions of law from the Hearing Examiner. The Governing Body may reverse, uphold or modify the disciplinary action for which the employee is appealing. If the City Attorney does not present the case at the hearing on behalf of the administration, the City Attorney may assist them in their conclusion. If the City Attorney does not advise that Governing Body because of a conflict of interest, the Governing Body may appoint separate counsel to advise them in their deliberations and assist in their decision.

**35.2.1 Burden of Proof and Order of Procedure at Hearing:** The employee shall have the burden of demonstrating by a preponderance of the evidence that the disciplinary action imposed is unjust. As nearly as can be, the hearing shall be conducted in accordance with the following order of procedure:

- A. Employee may briefly state his or her case and the evidence by which he or she expects to sustain it.
- B. The City may then briefly state their defense and the evidence they expect to offer in support of it.
- C. The employee shall first introduce his or her evidence, subject to cross-examination by the City. After the employee has presented all evidence, the City shall produce its evidence, subject to cross-examination

by the employee. At the close of the City's evidence, the employee may present rebuttal evidence.

- D. The Hearing Officer may, in his or her discretion, allow evidence to be offered out of the order prescribed.
- E. Following presentation of all evidence by both parties, the employee may then present a closing statement. The City may then present its closing statement. Finally, the employee may present rebuttal.
- F. Persons testifying at an appeal hearing shall stand and be administered the following oath by the Hearing Officer: "Do you swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?"

The Hearing Officer may waive the oath by showing that the person understands the meaning of telling the truth and that he or she may be charged and convicted of the crime of falsifying his or her testimony.

- G. The Hearing Officer shall have the following authority and powers:
  - 1. Administers oaths and affirmations;
  - 2. Issue subpoenas;
  - 3. Rule upon offers of proof and receive relevant evidence;
  - 4. Regulate the course of the hearing;
  - 5. Hold conferences for the settlement, simplification and discussion of the issues and procedures;
  - 6. Dispose of procedural requests or other similar matters;
  - 7. Cause findings of fact and conclusions of law to be finalized and filed with the Administrative Services Director and/or City Administrator and deliver to all parties;
  - 8. May recess the hearing or grant continuance for good cause;
  - 9. May require written briefs from any party clarifying its legal or factual position;
  - 10. May declare that any matter being taken under advisement that a decision will be announced at a later time, not to exceed 20 days for hearings before the hearing officer, or 60 days for all other hearings;
  - 11. Punish contempt by permanent removal from the hearing location by any person so offending;
  - 12. Take any other action authorized by law, consistent with these rules as required to fulfill any of his or her duties.

Admissibility of evidence in an appeals hearing shall be determined by the evidentiary

rules applicable in contested case hearings governed by the Wyoming Administrative Procedure Act. The adoption of the evidentiary rules of the Wyoming Administrative Procedure Act shall not be construed in any way to incorporate any of the rights, duties, obligations and procedures mandated by the Wyoming Administrative Procedure Act.

### **SECTION 36: EMPLOYEE BENEFITS**

All employee benefits are subject to change due to fiscal condition of the City, changes in rules, regulations or policies and the decision of the Governing Body in general. Benefits are subject to change each year if deemed appropriate by the Governing Body.

Eligible employees of the City of Cody are provided a wide range of benefits. A number of the programs (such as Social Security, Worker's Compensation, and unemployment insurance) cover all employees in the manner prescribed by law.

Benefits eligibility is dependent upon a variety of factors, including employee classification. Your supervisor can identify the programs for which you are eligible. Details of many of these programs can be found elsewhere in this personnel policy manual. In determining if leave requests will be granted, the Department Head and City Administrator will consider the best interests of the City of Cody and the interests of the employee in determining if leave will be granted.

The following benefit programs are available to eligible employees:

- Bereavement Leave
- Child Care Benefits
- Educational Benefits
- Educational Leave
- Family and Medical Leave
- Holidays
- Insurance Benefits
  - Health Insurance
  - Long Term Disability
  - Optional Life Insurance
  - Optional Supplemental Plans
- Court Leave
- Military Leave
- Personal Leave
- Retirement Program
- Sick Leave Benefits
- Vacation and Personal Day Benefits
- Voting Time Off

## Workers' Compensation Insurance

Some benefit programs require contributions from the employee, but many are fully paid by the City of Cody.

### **36.1 BEREAVEMENT LEAVE**

If an employee wishes to take time off due to the death of family member, the employee should notify his or her supervisor or Department Head immediately.

Up to three days of paid bereavement leave will be provided to full-time (regular or probationary) employees and one and one half days will be provided to part-time (regular or probationary) employees.

Bereavement pay is calculated based on the base pay rate at the time of absence.

Approval of bereavement leave will generally be granted in the absence of unusual operating requirements. Any employee may, with the supervisor's approval, use accrued paid leave for additional time off as necessary.

For the benefit of this policy, the City of Cody defines family as anyone related to the employee by blood or marriage. Consideration of bereavement leave may be given to employees whose relationship to the deceased was similar in nature to family members. Request for approval be made in writing to the City Administrator and employee's Department Head.

The employee's Department Head, with the concurrence of the Administrative Services Director and City Administrator, may grant the use of the employee's accrued sick leave up to one week (40 hours) after the death of a family member with the intent that the employee needs the time to tend to the personal affairs of the deceased family member. The request must be in writing and be made within six months of the death of the family member.

### **36.2 CHILD CARE BENEFITS**

The City of Cody provides limited short-term child care assistance to all eligible employees as a benefit of employment. Eligible employee classifications are:

- Probationary full-time employees
- Regular full-time employees
- Probationary part-time employees
- Regular part-time employees

Given below is a brief description of child care benefits that may be provided for up to one week when feasible. Longer leaves of absence for child care are addressed under the Family and Medical Leave section of this manual.

**36.2.1 Flexible Leave:** The City recognizes that the fulfillment of child care responsibilities can provide a compelling reason for emergency time-off requests. Where feasible, employees' needs will be accommodated on a limited basis. Requests for leave must be made to the appropriate Department Head. Employees may use accrued vacation or compensatory time for such emergency leaves. Employees who elect to not use accrued vacation or compensatory time may be authorized by the City Administrator to take a leave of absence without pay.

**36.2.2 Sick Leave Benefits:** Employees may use accrued sick leave benefits in the event of the illness of their dependent child. Approval of such requests for leave will be at the discretion of the appropriate supervisor or Department Head.

**36.2.3 Break Time for Nursing Mothers:** As required under the Fair Labor Standards Act (FLSA), the City of Cody will provide break time and space for a covered nonexempt nursing mother to express breast milk for her nursing child for one year after the child's birth. The City will provide a space that is functional for expressing milk, shielded from view, free from intrusion and available as needed. Since the City does not provide for paid breaks, it will be at the discretion of City Administrator to determine if the period of time that is taken for the purpose of expressing milk will be compensated.

### **36.3 EDUCATIONAL BENEFITS**

**36.3.1 Educational Assistance:** The City of Cody recognizes that the skills and knowledge of its employees are critical to the success of the organization. The educational assistance program encourages personal development through education programs so employees can maintain and improve job-related skills or enhance their ability to compete for reasonably-attainable jobs within the City. The City may provide educational assistance to eligible employees immediately upon assignment to an eligible employment classification. To maintain eligibility employees must remain on the active payroll and be performing their job satisfactorily through completion of each course. Employees in the following employee classification(s) are eligible for educational assistance:

Probationary full-time employees  
Regular full-time employees  
Probationary part-time employees  
Regular part-time employees



Individual courses or courses that are part of a degree, licensing, or certification program, including those being audited, must be related to the employee's current job duties or a foreseeable-future position in the organization in order to be eligible for educational assistance. The City has the sole discretion to determine whether a course relates to an employee's current job duties or a foreseeable-future position.

To participate in education benefits employees must request in writing assistance from their Department Head in advance of annual department budget preparation. The Department Head will determine if the course work is work-related and if the department work schedule will allow any time off needed to participate. If the course work is approved in writing by the Department Head and City Administrator, and if funds have been set aside and approved in the budget, the employee will complete a form available through the Administrative Services Department outlining the course(s) to be taken, the cost for tuition and the class schedule.

When the employee has successfully completed the course with a "C" or better, the employee will be reimbursed for tuition and book costs, up to a maximum of \$500 per full-time employee and up to a maximum of \$250 per part-time employee per budget year. If the employee's work schedule cannot be modified to allow a flex schedule to attend classes, the employee must use accrued compensatory or vacation time or take unpaid leave.

Employees should contact their supervisor or Department Head for more information or questions about educational assistance. Course work must be approved in writing by the employee's Department Head and the City Administrator in advance of registration.

While educational assistance is expected to enhance employees' performance and professional abilities, the City cannot guarantee that participation in education programs will entitle the employee to automatic advancement, a different job assignment, or pay increases.

If the City of Cody determines that it is making a substantial investment in furthering an employee's education and/or skills, the City may require the employee to enter into a contract obligating the employee to repay all or a portion of the investment if the employee resigns from his or her position within a designated period of time after the investment has been made.

The City of Cody will not pay for or provide assistance for employees who wish to participate in personal enhancement (non job-related) course work.

**36.3.2 Educational Leave:** The City of Cody may provide educational leaves of absence without pay to eligible employees who wish to take time off from work duties to pursue course work. Employees in the following employment classification(s) are eligible to request educational leave as described in this policy:

- Regular full-time employees
- Regular part-time employees

Eligible employees may request educational leave for a period of up to six months every five years. Requests will be evaluated based on a number of factors, including anticipated work load requirements and staffing considerations during the proposed period of absence. Granting of educational leaves of absence will be at the discretion of the appropriate Department Head and the City Administrator.

Subject to the terms, conditions, and limitations of the applicable plans, health insurance benefits will be provided by the City during the leave. Benefit accruals, such as vacation, sick leave, or holiday benefits will not continue to accrue during the unpaid leave. Retirement contributions will not continue during the unpaid leave of absence.

When an educational leave ends, every reasonable effort will be made to return the employee to the same position, if it is available, or to a similar available position for which the employee is qualified. However, the City cannot guarantee reinstatement in all cases.

If an employee fails to report to work at the end of the approved leave period, the City will assume that the employee has resigned.

The City of Cody will not provide leaves of absence for employees who wish to participate in personal enhancement (non job-related) course work.

#### **36.4 FAMILY AND MEDICAL LEAVE**

The Family and Medical Leave Policy provides employees with time off to attend to the needs of immediate family members under certain circumstances. In addition, the policy is intended to permit an eligible employee time off for a serious illness that makes the employee temporarily unable to perform his/her job.

This policy is intended to meet or exceed the requirements of federal legislation. If laws of the State of Wyoming are more generous in any area, the state law will prevail over this policy on a provision-by-provision basis.

**36.4.1 Leave Benefits:** An eligible employee may take unpaid leave of absence for a total of twelve (12) work weeks during any twelve month period for one or more of the following reasons:

- a. The birth and first-year care of a child (benefits end after the child reaches age one);
- b. The adoption or foster placement of a child (the benefits end twelve months after adoption or placement);
- c. The "serious health condition" of an employee's spouse, parent, or child;
- d. The employee's own serious health condition that makes the employee unable to perform his/her job functions.
- e. "Covered Active Duty" means:
  - a. In the case of a member of the regular Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; and
  - b. In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 1010(a)(13)(B) of Title 10.
- f. A "qualifying exigency" as defined by the United States Secretary of Labor, in which the employee's spouse, son, daughter or parent on covered active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in a foreign country. Qualifying exigency leave can only be approved for those categories of leave authorized and approved by the Family Medical Leave Act and the United States Department of Labor Rules and Regulations.

The entitlement to leave for birth, adoption or foster placement of a child as described above expires twelve (12) months after the birth, adoption or foster care placement. For purposes of leave under the next two categories above, a "serious health condition" is defined as an illness, injury, impairment or physical or mental condition that involves in-patient care or continuing treatment by a health care provider. The "continuing treatment" test for a serious health condition under the regulations may be met through:

1. A period of incapacity of more than five consecutive, full calendar days plus treatment by a health care provider that results in either:

- a. Two (2) or more treatments in person by a health care provider within 30 days of the first day of incapacity, unless extenuating circumstances exist. The first treatment must take place within 7 days of the first day of incapacity, and health care provider, not the employee/patient, shall determine if the second visit is needed; or
  - b. Treatment by a health care provider on at least one occasion followed by a regimen of continuing treatment under the supervision of the health care provider. Over-the-counter medications, bed rest, taking of fluids, exercise and other activities that can be initiated without a visit to a health care provider to not constitute continuing treatment. Serious health condition does cover conditions such as asthma and diabetes even if the episode of incapacity does not last more than five(5) days.”
2. Any period of incapacity related to pregnancy or for prenatal care;
  3. Any period of incapacity or treatment for a chronic serious health condition;
  4. A period of incapacity for permanent or long-term conditions for which treatment may not be effective, or
  5. Any period of incapacity to receive multiple treatments (including recovery from those treatments) for restorative surgery, or for a condition which would likely result in an incapacity of more than five consecutive, full calendar days absent medical treatment.

For purposes of the benefits referred to above which pertain to leave for the serious health condition of a child, the term “child” shall mean a son or daughter which is either a biological, adopted or foster child, a step-child, a legal ward, or a child of a person standing in loco parentis who is:

1. Under eighteen (18) years of age; or
2. Eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability.

When both a husband and wife are employed by the City of Cody, they are permitted to take only twelve (12) weeks leave in the aggregate over a twelve (12) month period if the leave is for birth, adoption, placement of a foster child or the care of a sick family member. For other types of family and medical leave available under this policy, each employee may take up to twelve (12) weeks leave in a twelve (12) month period.

**36.4.2 Military Caregiver Leave:** Subject to the requirements of this policy and Federal law, an eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the covered service member. During the 12-month period described in the paragraph, an eligible employee shall be entitled to a combined total of 26 workweeks of leave for leave under this paragraph, and leave under the section entitled “Benefits”.

“Covered Service Member” means the following:

- a) 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.
- b) 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 “outpatient status” with respect to a covered service member, means the status of a member of the Armed Forces assigned to:

1. A military medical treatment facility as an outpatient; or
2. A unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

The term “Next of Kin” means the nearest blood relative of that individual.

The term “serious injury or illness” in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade rank or rating.

**36.4.3 Leave Eligibility:** All regular full-time and part-time employees who meet the following criteria are eligible for FMLA leave:

1. Have been employed by the City of Cody for at least 12 months (nonconsecutive); and
2. Have worked for at least 1250 hours within the previous twelve (12) month period. Time paid (i.e. sick leave, vacation leave, etc) will not be counted in calculating hours of service.

The use of numbers of hours of work in this policy instead of reference to days or weeks of work is intended only for ease of administration and should not be interpreted as having any effect on employment status under the Fair Labor Standards Act.

Any eligible employee who is entitled to the leave referred to above shall be entitled to continuation of health benefits and all other insurance benefits, as well as accrual of sick leave and/or other leave benefits during the period of leave, under the same terms and conditions as are provided to the employee prior to taking the leave. Any increase in premiums or deductibles that apply to active employees shall also apply to employees on FMLA leave. Any employee who fails to pay the required share of premium may be dropped from coverage under the group health plan.

Any employee who is eligible for this leave and takes the leave is entitled to an equivalent position with equivalent pay, benefits, and conditions of employment upon return to employment so long as the employee can continue to perform all the essential functions of the position.

Family and Medical Leave are not to be considered as leave in addition to other leave granted to the employee by the City of Cody. FMLA is intended only to supplement that leave to the extent it does not otherwise provide for twelve (12) weeks of leave. The City of Cody will require employees to use accrued leave in conjunction with FMLA leave. If the employee does not have 12 weeks of accrued leave, the employee will take as much FMLA leave paid as they have accrued and the remaining leave (up to 12 weeks) will be taken as unpaid FMLA leave). For example: If due to the illness of an employee, an employee desires to take leave for a period up to twelve (12) weeks and the employee has available six (6) weeks of sick leave, one (1) week of compensatory leave, and one (1) week of vacation leave, then the employee would be required to use the eight (8) weeks of available leave and would therefore use four (4) weeks of unpaid leave, equaling the twelve (12) weeks of FMLA leave.

**36.4.4 Duties of Employee:** In the case in which the reason for leave is due to the necessity of the employee to care for the spouse, son, daughter, or parent of the employee or because of the serious health condition that makes the employee unable to perform the essential functions of his/her position, the employee shall:

1. Make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the City, subject to the approval of the health care provider; and
2. Provide the City with timely oral and written notice; such notice may not be less than thirty (30) days before the date the leave is to begin. In cases where the date of the treatment requires the leave to begin in less than (thirty) 30 days, the employee shall provide such notice on the day the employee learns of the need for the leave or the next business day. If the employee does not give at least thirty (30) days notice, the City may ask

for an explanation, and the employee must respond. If an employee fails to give proper notice, the City may delay or deny leave.

**36.4.5 Duties of the City:** The City of Cody shall notify the employee of eligibility within 5 business days of the employee's request or of the City learning that leave may be covered by FMLA, unless there are extenuating circumstances. The notice may be oral or written, and must inform the employee if he or she is eligible. If the employee is not eligible for FMLA leave, the eligibility notice must specify at least one reason why the employee is not eligible.

The City of Cody must also give notice to the employees of their rights and responsibilities. The City may use a single form (including U.S. Department of Labor forms) for both the eligibility notice and the rights and responsibility notice.

**36.4.6 Certification:** The City of Cody will require an employee who requests Family and Medical Leave to be supported by a certification issued by the health care provider of the eligible employee or of the son, daughter, spouse, or parent of the employee, or in the case of service member family leave, of the next of kin of an individual as appropriate. The City must request the certification within five (5) business days after the employee requests leave. The City must give the employee at least fifteen (15) calendar days to provide the certification. It is the employee's responsibility to provide the City with a complete and sufficient certification. The employee shall be responsible for the cost of such certification or re-certification.

If the certification is incomplete or insufficient, the City must notify the employee in writing of what additional information is needed and must allow the employee at least seven (7) calendar days to cure any deficiency in the certification. A certification is incomplete if an entry is blank, and is insufficient if information is vague, ambiguous or nonresponsive. The City may deny FMLA leave if the deficiencies in the certification are not corrected, or there is no resubmitted certification.

The City of Cody may contact the health care provider for authentication (i.e. verifying that the health care provider completed and signed the certification) or clarification (i.e. understanding the handwriting or understanding the meaning of a response) but only after giving the employee a chance to clarify. The City Administrator, Administrative Services Director or his/her designee may contact the employee's health care provider, but the employee's direct supervisor may not contact the health care provider.

In the case of a qualified exigency leave request, the City of Cody may require the employee to provide a copy of the service member's active duty orders, or to complete form WH-384. In addition, the City of Cody reserves the right to contact a third party to verify that the employee met with the third party during the leave (for example a teacher or financial institution). If the employee submits complete and sufficient certification supporting the request for leave, the City of Cody may not request additional information from the employee.

In the case of a military caregiver leave request, the City of Cody may require certification of the need for caregiver leave from specific military health care providers. The City of Cody may require the employee to complete a form WH-385 for certifying military caregiver leave.

Certification shall be determined sufficient if it states the following:

1. The date on which the serious health condition commenced; and
2. The probable duration of the condition; and
3. The appropriate medical facts within the knowledge of the health care provider regarding the condition; and
4. If applicable, a statement that the eligible employee is needed to care for the son, daughter, spouse or parent and an estimate of the amount of time that such employee is needed to care for the son, daughter, spouse or parent; and
5. In the case of the employee's own serious health condition, a statement that the employee is unable to perform the functions of the position of the employee; and
6. In the case of certification for intermittent leave or leave on a reduced leave schedule for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment, and a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule.

In any case in which the City of Cody has reason to doubt the validity of the certification provided by the employee for leave for medical care or for medical reasons, the City may require, at the expense of the City, that the eligible employee obtain the opinion of a second health care provider designated and approved by the City concerning any information certified under this section of such medical leave.

In the event in which the second opinion described above differs from the opinion in the original certification provided under this section, the City may require, at the expense of the City, that the employee obtain the opinion of a third health care provider designated or approved jointly by the City and the



employee. The opinion of the third health care provider shall be considered to be final and shall be binding on the on the City and the Employee.

The City of Cody may ask for recertification once every thirty (30) days in connection with the employee's absence. If the original certification indicated that the condition will last more than thirty (30) days, and the leave involves the absence of the employee, the City will not ask for recertification during the period specified in that original certification. The City may ask for recertification every six months, regardless of the period specified in the certification. The City of Cody may not request recertification for qualified exigency or military caregiver leave.

**36.4.7 Intermittent and Reduced Schedule Leaves:** Serious health condition leaves described earlier may be taken on an intermittent or reduced schedule basis when medically necessary. Birth/adoption/foster placement leaves may be taken on an intermittent or reduced schedule basis only with the approval of the City Administrator and Department Head and the concurrence of the Administrative Services Director or their designees. For purposes of this policy, "intermittent leave" includes periods of absence ranging from one hour to several weeks. "Reduced schedule" means a leave schedule that reduces the usual number of hours worked by an employee.

- Medical Certification: Employees taking an intermittent or reduced schedule leave for planned medical treatment are required to provide written certification from a health care provider that includes (i) the expected treatment dates; (ii) the treatment's expected duration; and (iii) a statement of the medical necessity of the leave.
- Employee Obligation: Employees must make a reasonable effort to schedule intermittent leave which is foreseeable, based on planned medical treatment and approval of the health care provider, so as not to unduly disrupt the company's business operation.
- Temporary Transfer: The city may require an employee who requests intermittent leave or leave on a reduced schedule basis to temporarily transfer to an alternative job that better accommodates such periods of leave. The alternative position will be one for which the employee is qualified, and which provides equivalent pay and benefits.

**36.4.8 Job Reinstatement and Failure to Return to Work:** Employees are entitled to be reinstated in their prior jobs, or equivalent jobs with equivalent pay and benefits, upon their timely return from a family or medical leave. An employee returning from a serious illness leave is required to provide written certification from a health care provider that the employee is able to resume work. The employee returning from a serious illness retains the right to

reinstatement after returning from an absence up to and including twelve (12) weeks duration. Leave taken because of a serious illness longer than twelve (12) week's duration will be covered under the Sick Leave Policy and employees will be eligible to submit a claim under the employee's long term disability policy. An employee who fails to report to work or provide required medical documentation relating to the illness or injury will be terminated from employment.

A salaried employee who is in the highest paid 10% among those employed by the City may be denied job reinstatement if necessary to prevent significant and grievous economic injury to the City's operations. An affected employee will be notified of the City's decision to deny job reinstatement as soon as possible. If notice is provided after the leave has already commenced, the employee will be given the opportunity to immediately return to the job. An employee who fails to return to work after the leave of absence expires is required to reimburse the City for the City's share of premiums/contributions for health coverage provided during the leave. Failure to reimburse the City of Cody may lead to legal action and/or withholding such amounts from payments otherwise owed to the employee (e.g. accrued vacation pay), pursuant to the employee's signed authorization permitting such withholding.

Employees on family or medical leave are required to periodically report to their Department Head and/or Administrative Services Director or his/her designee on their status and intention to return to work, as outlined in the Sick Leave Policy.

A twelve (12) month period for the purposes of this policy is calculated starting from the day the employee is notified by the City of Cody that a leave of absence qualifies under the Family and Medical Leave Policy.

### **36.5 HOLIDAYS**

The City of Cody grants holiday time off to all employees on the holidays listed below.

New Year's Day (January 1)  
Presidents' Day (third Monday in February)  
Memorial Day (last Monday in May)  
Independence Day (July 4)  
Labor Day (first Monday in September)  
Veterans' Day (November 11)  
Thanksgiving Day (fourth Thursday in November)  
Day after Thanksgiving  
Christmas Day (December 25)

The City will grant paid holiday time off to all eligible employees immediately upon assignment to an eligible employment classification. Holiday pay will be calculated based on the employee's straight-time pay rate (as of the date of the holiday) times the number of hours the employee would otherwise have worked on that day. If the holiday falls on an employee's scheduled day off, the employee will receive 8 hours of holiday pay and those hours will qualify as time worked for the calculation of overtime on his/her time sheet. In the case of a part-time employee, the employee will receive 4 hours of holiday pay. Eligible employee classification(s):

Regular full-time employees	8 hours pay per holiday
Probationary full-time employees	8 hours pay per holiday
Regular part-time employees	4 hours pay per holiday
Probationary part-time employees	4 hours pay per holiday

A recognized holiday that falls on a Saturday will be observed on the preceding Friday. A recognized holiday that falls on a Sunday will be observed on the following Monday. If a recognized holiday falls during an eligible employee's paid absence (e.g., vacation, sick leave), holiday pay will be provided instead of the paid time off benefit that would otherwise have been used.

If a nonexempt regular employee works on a recognized holiday, he or she will receive holiday pay at one and one-half times his or her straight-time rate for the hours actually worked on the holiday plus eight hours (or four hours in the case of a part-time employee) of straight time pay.

### **36.6 INSURANCE BENEFITS**

**36.6.1 Health Insurance:** The City of Cody offers its regular and probationary full-time employees a health and life insurance plan through the Wyoming Association of Municipalities-Joint Powers Insurance Coverage (WAM-JPIC). The program is a group health and life insurance plan. The group health portion of the plan is administered and underwritten by BlueCross BlueShield of Wyoming. The group life plan is administered and underwritten by Medical Life Insurance Company.

The City of Cody has also elected to offer eligible employees limited dental coverage under the Dental Option program within the insurance plan. Upon accepting a position with the City of Cody there is a waiting period for the application to be processed by the insurance provider.

Information about the City of Cody's health and life insurance coverage program may be obtained from the Administrative Services Director or his/her designee.

a. **COBRA**

The Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue health insurance coverage under the City's health plan when a "qualifying event" would normally result in the loss of eligibility. Some common qualifying events are resignation, termination of employment, or death of an employee; a reduction in an employee's hours or a leave of absence; an employee's divorce or legal separation; and a dependent child no longer meeting eligibility requirements.

Under COBRA, the employee or beneficiary pays the full cost of coverage at the City's group rates plus an administration fee.

The City's insurance plan administrator will provide each eligible employee with a written notice describing rights granted under COBRA. The notice contains important information about the employee's rights and obligations.

**36.6.2 Long Term Disability:** The City of Cody offers all regular full-time, regular part-time and probationary full-time and regular part-time employees a Long Term Disability Plan through Unum Life Insurance Company of America. The program is a group insurance policy. The City of Cody pays full cost of this coverage.

The long term disability plan provides financial protection to the employee by paying a portion of his/her income while he/she is disabled. Employee coverage in this plan begins on the first day of the month after initial date of hire. Benefits begin the day after the elimination period is complete. The elimination period is 90 consecutive days of not being able to work.

Information about the City of Cody's long term disability program may be obtained from the Administrative Services Director or his/her designee.

**36.7 COURT LEAVE**

**36.7.1 Jury Duty:** The City of Cody encourages employees to fulfill their civic responsibilities by serving jury duty when required.

The City of Cody will pay the employee's regular wage for forty (40) working hours for full-time employees and for twenty (20) working hours for regular part-time employees. Jury duty pay will be calculated on the employee's base pay rate times the number of hours the employee would

otherwise have worked on the day of absence. Jury duty fees paid to the employee will be turned back to the City by the paid employee. Employee classifications that qualify for paid jury duty leave are:

- Probationary full-time employees
- Regular full-time employees
- Probationary part-time employees
- Regular part-time employees

For jury duties lasting longer than forty (40) working hours for full-time employees and (20) hours for regular part-time employees, employees will not be paid, but are free to use any accrued eligible paid leave benefits such as vacation, compensatory time and the personal day to receive compensation for any period of jury duty absence that would otherwise be unpaid. Employees must show the jury duty summons to their supervisor as soon as possible so the supervisor may make arrangements to accommodate their absence. Employees are expected to report for work whenever the court schedule permits. The City Administrator may allow additional paid time to fulfill jury duty obligations.

The City will continue to provide health insurance benefits for the full term of the jury duty absence. In addition, vacation, sick leave, retirement and holiday benefits will continue during jury duty leave so long as the employee is drawing pay from the City of Cody.

**36.7.2 Witness Duty:** The City of Cody encourages employees to appear in court for witness duty when subpoenaed to do so. If employees have been subpoenaed or otherwise requested to testify as witnesses by the City or because of the position they hold with the City of Cody, they will receive paid time off for the entire period of witness duty. Any fees paid which relate to serving as a witness under this circumstance will be turned over to the City of Cody if the City is granting paid leave to appear as a witness.

Employees will be granted a maximum of 40 hours for full-time employees and 20 hours for regular part-time employees of unpaid time off to appear in court as a witness at the request of a party other than the City. Employees will not be paid but are free to use any accrued eligible paid leave benefits such as vacation, compensatory time and the personal day to receive compensation for any period of witness duty absence that would otherwise be unpaid.

The subpoena should be shown to the employee's supervisor immediately after it is received so operating requirements can be adjusted, where necessary, to accommodate the employee's absence. The employee is expected to report for work when the court schedule permits.

## **36.8 MILITARY LEAVE**

**36.8.1 General Provisions:** A military leave of absence will be granted to employees to attend scheduled drills or training or if called to active duty with the U.S. armed services. All sections of this policy will be in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). Questions regarding military leave are addressed in general in this policy, but for more detailed situations, the Administrative Services Director or his/her designee shall refer to the Federal Register of the Department of Labor 20 CFR Part 1002 for clarification, identification and interpretation of the USERRA. The Administrative Services Director or his/her designee shall have a copy of the Federal Register in his/her office for employee review.

**36.8.2 Requirement of Notice:** All employees must notify the City of Cody that he/she intends to leave the employment position to perform service in the uniformed services. The employee's notice may be written or verbal and must provide at least thirty days notice if possible and if not possible, be as far in advance as reasonably possible.

**36.8.3 Periods of Service:** A City of Cody employee may perform service in the uniformed services for a cumulative period of up to five (5) years and retain reemployment rights with the City of Cody. Some exceptions apply and can be found in 20 CFR Part 1002.

**36.8.4 Application for Reemployment:** Upon completing service in the uniformed services, the employee must notify the City of Cody of his/her intent to return to his/her employment by either reporting to work or submitting a timely application for reemployment.

- a. Periods of service less than 31 days or for the period of any length of a fitness examination: the employee must report back to work not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service, and the expiration of eight hours after a period allowing for safe transportation from the place of that service to the employee's residence.
- b. Period of service more than 30 days but less than 181 days: the employee must submit an application for reemployment (written or

verbal) with the employer not later than 14 days after completing service.

- c. Period of service more than 180 days: the employee must submit an application for reemployment (written or verbal) not later than 90 days after completing service.

Reemployment rights are terminated if the employee is:

- a. Separated from uniformed service with a dishonorable or bad conduct charge;
- b. Separated from uniformed service under other than honorable conditions, as characterized by regulations of the uniformed service;
- c. A commissioned officer dismissed as permitted under 10 U.S.C. 1161 (a) by sentence of a general court-martial; in commutation of a sentence of a general court-martial; or, in time of war, by order of the President; or,
- d. A commissioned officer dropped from the rolls under 10 U.S.C 1161 (b) due to absence without authority for at least three months; separation by reason of a sentence to confinement adjudged by a court-martial; or, a sentence to confinement in a Federal or State penitentiary or correctional institution.

**36.8.5 Military Training Leave of Absence Pay:** Employees will receive full pay for training assignments of fifteen days and shorter absences pursuant to Wyoming State Statute 19-11-108(a) which states...employees in the Wyoming National Guard or U.S. Military reserve shall be given a military leave of absence with pay at the regular salary or wage which the employee normally receives, not to exceed fifteen (15) calendar days in any one (1) calendar year. Employees must present official military duty or training orders. The portion of any military leaves of absence in excess of fifteen calendar days will be unpaid. However, employees may use accrued time off such as vacation, compensatory time and the personal day during the absence.

**36.8.6 Benefit provisions during Military Leave of Absence:**

1. Health Insurance: So long as the City of Cody has a health insurance program in place, and the employee is part of the plan at the time the employee requests leave; the employee is eligible to keep coverage on himself/herself and eligible dependents.
  - a. Leave less than 31 days: The employee cannot be required to pay more than the regular employee share, if any, for health insurance coverage.

- b. Leave for more than 31 days: The employee may be required to pay no more than 102% of the full premium under the plan, which represents the employer's share plus the employee's share, plus 2% for administrative costs.
- c. Seniority Benefits: the employee is eligible to receive all seniority, status and rate of pay benefits. Vacation and sick leave benefits will cease to accrue during a military leave of absence, however the balances will remain available for when the employee returns. In addition, any increases in pay due to longevity or that would have been provided during the period of leave must be restored upon reemployment.

Wyoming Retirement System Contributions: Upon reemployment, the employee is treated as not having a break in service with the employer for purposes of participation, vesting and accrual of benefits so long as once he or she is reemployed and has repaid any contributions that would have been required while he/she was on leave. Employees are required to repay their portion of the contribution within five years. Should the employee elect not to repay their contribution, the time on leave will be treated as a break in service. All rules and regulations of the Wyoming Retirement System will be followed with regard to employer and employee contributions once the employee is reemployed.

### **36.9 PERSONAL LEAVE**

The City of Cody may provide leaves of absence to eligible employees who wish to take time off from work duties to fulfill personal obligations. If granted, employees may use accrued paid time off including vacation, compensatory time and personal day. Once all paid time has been used, employees may also, with approval from the Department Head and City Administrator, extend their personal leave without pay. Employees in the following employment classification(s) are eligible to request personal leave as described in this policy:

- Probationary full-time employees
- Regular full-time employees
- Probationary part-time employees
- Regular part-time employees

As soon as eligible employees become aware of the need for a personal leave of absence, the employee shall submit a written request to their Department Head outlining the purpose and expected duration of the requested leave.

If authorized, personal leave may be granted for a period of up to 30 calendar days for full-time employees and 15 calendar days for part-time employees every twelve



months. If this initial period of absence proves insufficient, consideration will be given to a written request for a single extension.

Requests for personal leave will be evaluated based on a number of factors, including anticipated work load requirements and staffing considerations during the proposed period of absence.

Subject to the terms, conditions and limitations of the applicable plans, the City will continue to provide health insurance benefits for up to 30 calendar days of approved personal leave for eligible employees. The Employee will only be expected to reimburse the City of Cody for the employee share of the premium that would have been deducted from the employee's pay had the employee been at work. Employees authorized to extend personal leaves of absence beyond 30 days will be required to reimburse the City of Cody for the entire employer and employee health care insurance premium. Vacation, sick leave, and holiday benefits will not continue to accrue during the approved personal leave period. Retirement contributions will not continue during any unpaid leave of absence. Long term disability premiums must be reimbursed to the City of Cody for periods of leave greater than 30 days.

When a personal leave ends, every reasonable effort will be made to return the employee to the same position, if it is available, or to a similar available position for which the employee is qualified. However, the City cannot guarantee reinstatement in all cases. In any case where the City of Cody must fill the employee's position while on a personal leave of absence, the City will make all reasonable efforts to notify the employee in advance in an effort to allow the employee to immediately return to their position.

If an employee fails to report to work promptly at the expiration of the approved leave period, the City will assume the employee has resigned.

### **36.10 Retirement Program**

The City of Cody participates in the Wyoming Retirement System program. Participation by regular full-time and part-time employees is mandatory. At the adoption of this policy manual, Wyoming Statutes require 14.12% of the employee's monthly salary. Regulations require each employee to contribute 7.00% to 7.5% of his/her gross salary and the City will contribute an additional 7.12% of the employee's gross salary. The regulations allow for each City to pay more than the 7.12% and thereby decrease the percentage paid by the employee. However, the City may not pay less. The Governing Body has authorized as part of the benefits package to pay 10.44% of each employee's gross salary and each employee must pay 4.18%. This percentage is subject to change at the discretion of the Governing Body. Statutory changes may also happen during the legislative process each year.

Under the Wyoming Retirement System Regulations, Certified Peace Officers and the City must pay 8.6% of the gross salary towards the employee's retirement. The Governing Body has authorized as part of the benefits package to pay 10.44% of each Peace Officer's gross salary and each Peace Officer must pay 6.76%. This percentage is subject to change at the discretion of the Governing Body.

Eligible employees receive a handbook of the Wyoming Retirement System. Additional information can be obtained from the Administrative Services Director or his/her designee.

### **36.11 Sick Leave Benefits**

**36.11.1 Purpose:** Sick leave benefits are intended solely to provide income protection in the event of illness or injury. The City of Cody provides paid sick leave benefits to all eligible employees for periods of temporary absence due to employee illnesses or injuries as well as the illnesses or injuries of the employee's immediate family including the employee's spouse, child or parent or same by marriage. Any time spent attending doctors' appointments or time away from work due to an injury or illness will be recorded as sick time.

An employee who wishes to take sick leave without pay must have authorization from the appropriate Department Head, Administrative Services Director and City Administrator.

Accrued Sick leave (up to 40 hours) may also be granted to employees after the death of an immediate family member where the employee needs time to tend to the deceased family member's affairs.

#### **36.11.2 Eligible employee classification(s):**

- Probationary full-time employees
- Regular full-time employees
- Probationary part-time employees
- Regular part-time employees

#### **36.11.3 Accrual:** Eligible employees will accrue sick leave benefits at:

- 8 hours per month for full-time employees
- 4 hours per month for part-time employees

Sick leave will begin to accrue at the start of employment. Paid sick leave is to be rounded to the nearest quarter-hour increment and

recorded as such. Effective with the date of this policy manual, employees' will be eligible to accrue up to a maximum of 720 hours of sick leave. After 720 hours of leave, if the employee is not able to return to work, the City of Cody's Long Term Disability Policy will go into effect.

**36.11.4 Grandfathered Sick Leave Balances:** Employees with sick leave balances in excess of 720 hours as of the adoption date of this policy manual will be allowed to keep all of the hours accrued until such time that the employee uses the hours below 720 hours. After the employee has used below the 720 hour threshold, the employee will only be allowed to accrue up to 720 hours from that point forward.

**36.11.5 Notification of Sick Leave:** Employees who are unable to report to work due to illness or injury shall notify their direct supervisor before the scheduled start of their workday if possible. The direct supervisor must also be contacted by the employee on each additional day of absence unless other arrangements have been authorized by the Department Head. Employees on extended leave must contact their direct supervisor at least weekly. For Family and Medical Leave Act notification purposes please refer to section 33.4.

**36.11.6 Verification of Illness:** If an employee is absent for five or more consecutive working days due to illness or injury, a physician's statement must be provided verifying the reason for the absence. A Doctor's release authorizing the employee to perform the essential functions of his or her position must be provided to the employee's supervisor or Department Head prior to returning to work. Such verification may be requested for other sick leave absences as well and may be required as a condition to receiving sick leave benefits. Physicians' statements will be maintained in the employee's medical file. Employees who are on extended sick leave must provide documentation from medical reevaluations every four weeks. Documentation must verify the continued need for time off and the expected date the employee will return to work.

**36.11.7 Calculation of Sick Leave Benefits:** Sick leave benefits will be calculated based on the employee's base pay rate at the time of absence. Employees who become sick during a scheduled vacation are not entitled to exchange accrued sick leave in place of the accrued vacation which had been arranged without the approval of their Department Head. All sick leave benefits must be taken from accrued

sick leave time. Sick leave cannot be taken before it has been earned and accrued.

**36.11.8 Sick Leave Conversion:** Eligible employees may be able to convert a portion of their accrued sick leave towards the employee's 457 Deferred Compensation Account or Health Savings Account or a combination of both upon an eligible separation from employment. In the event of an eligible employee's untimely death if he or she is not currently enrolled in the City's Health Insurance Plan, thus not having a qualifying Health Savings Account nor an active City 457 Deferred Compensation Account, the dollar amount associated with the sick leave conversion will be paid to the employee's current beneficiary as listed with the Wyoming Retirement System. The entire dollar amount will be subject to Federal taxes and withheld accordingly with the W4 on file for this employee. Conversion of sick leave is subject to the Internal Revenue Service contribution rules and regulations in place at the time of conversion. Employee's with a conversion balance greater than their account contribution availability will forfeit the remaining conversion balance.

- a. Eligible Separation of Employment Includes:
  - 1. Where the employee has worked for the City of Cody for 7 continuous years in a benefited position and then voluntarily terminates.
  - 2. Where there is a reduction in force.
  - 3. Where the employee retires under the Wyoming Retirement System and has work for 7 continuous years in a benefited position.
  - 4. Where the employee dies and had worked for the City for 7 years in a benefited position and the employee designated a beneficiary of his/her sick leave bank.
  - 5. Where the employee is forced to terminate for medical reasons due to a work related injury received while employed by the City of Cody.

If an employee is terminated in any manner other than the above described situations, no sick leave benefits will be converted.

- b. Conversion Policy: The employee's sick bank hours will be converted at the rate of pay the employee is earning at the time of separation. Leave will be converted by taking the total unused accumulated sick leave hours, up to a maximum of 720 hours,

multiplied by the employee's rate of pay at the date of separation, multiplied by the percentage in accordance to the following table:

<u>Total years of consecutive service</u>	<u>% of Current Pay</u>
Less than 7	0%
7	5%
8	10%
9	15%
10	20%
11	25%
12	30%
13	35%
14	40%
15	45%
16+	50%

For example, an employee who worked for the City of Cody for 5 years would not be eligible for sick leave conversion. An employee who worked for the City of Cody for 10 years, had 720 hours accrued, and made \$15 per hour would be able to convert the equivalent of \$2,160 to their Health Savings Account or Deferred Compensation Account (720 hours multiplied by \$15 per hour multiplied by 20%).

- c. Conversion Policy for Total Payout Value of \$500.00 or less: In the situation that would result in the payout value of \$500.00 or less and the employee does not currently participate in the City's Health Insurance nor have an active City 457 Deferred Compensation plan, the employee would have the option of a cash payout in lieu of establishing a City 457 Deferred Compensation plan. The entire dollar amount would be subject to Federal taxes and withheld accordingly with the W4 on file for this employee.

**36.11.9 Sick Bank Usage and Donation:** The City of Cody allows employees to donate sick leave to other eligible employees who may not have accumulated enough time to recover from a serious injury or catastrophic illness through the use of a Sick Leave Bank as well as individually. In order to use time from the Bank, an employee must submit a request to the Administrative Services Director or his/her designee along with a Doctor's notice that time from work will be required. In addition, the employee must have used all of his/her accrued sick leave, vacation leave, personal day and compensatory time. If the employee qualifies, the Administrative Services Director

or his/her designee, City Administrator and Department Head will authorize the deduction of time from the Bank to cover each pay period from which the employee is absent from work. Banked sick leave time can only be used for the illness of a City of Cody employee (not family members) and only for an illness which qualifies under the Family and Medical Leave Act (refer to the Family and Medical Leave Policy). The Sick Leave Bank may not be used if it is determined the employee will not sufficiently recover to return to work.

Employees with life-threatening illnesses such as cancer, heart disease, and HIV or AIDS, disability, or injury, often wish to continue their normal pursuits, including work, to the extent allowed by their condition. The City of Cody supports these endeavors as long as employees are able to meet acceptable performance standards and so long as existing sick leave policy requirements are met. As in the case of other disabilities, the City of Cody will make reasonable accommodations in accordance with all legal requirements, to allow qualified employees with life-threatening illnesses to perform the essential functions of their jobs.

Medical information on individual employees is treated confidentially. The City of Cody will take reasonable precautions to protect such information from inappropriate disclosure. Supervisors and other employees have a responsibility to respect and maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information is subject to disciplinary action, up to and including termination of employment.

Employees with questions or concerns about life-threatening illnesses are encouraged to contact their Department Head, the Administrative Services Director or his/her designee, or the City Administrator for information and referral to appropriate services and resources.

**36.11.10 Sick Bank Usage Rules:** The following rules will apply to the Sick Leave Bank.

1. No full-time employee may use more than 160 hours of time from the bank in any 12 month period of time and no part-time employee may use more than 80 hours of time from the bank in any 12 month period of time.
2. Additional hours from this bank will not be approved, however, individual donations made by other employees directly to the injured or ill employee will be allowed under the donation rules section as outlined below.
3. Employees using the Sick Leave Bank will provide medical

records prior to leave being authorized. The records are to verify the need for time off and the likelihood of the employee returning to work.

4. Employees may not accrue additional leave (sick and vacation) while receiving leave from the sick bank.

#### **36.11.11 Sick Bank Donation Rules:**

1. General Donations to the City Bank intended for all eligible employees.
  - a. No full-time employee may donate to the bank unless he/she has accrued at least 80 hours of sick leave and no regular part-time employee may donate to the bank unless he/she has accrued at least 40 hours of sick leave.
  - b. No one employee may donate more than 10% of his/her accrued sick leave at any one time if he/she has less than 300 hours of accrued sick leave.
  - c. No one employee may donate more than 100 total hours of sick leave to the bank in a calendar year.
  - d. Donations can be made to the bank at any time during the year. Employees should obtain a general donation form on file with the Administrative Services Director or his/her designee.
2. Donations made to individual employees
  - a. Donations may be made to individual employees directly from co-workers if the employee is not able to return to work due to his/her injury or illness after the employee has used the eligible hours available from the general sick bank.
  - b. Employees wishing to donate sick leave to individual employees must complete the request in writing to the Administrative Services Director.
  - c. Employee's donating leave to individual employees may donate 16 hours of leave per employee per year and must have at least 300 hours of leave time available in their sick leave account, but may not donate more than 100 total hours of sick leave to specific employees in a calendar year.
  - d. No donations may be made to rebuild an individual's sick leave account. It may only be used to supplement the employee's income due to time lost from work.
3. Donation request by the injured/ill employee.
  - a. If an injured or ill employee has utilized all available leave (vacation, sick, comp and personal) and has exhausted the

- available leave from the general sick bank, the employee may request donations from individual co-workers.
- b. The requesting employee must complete a form on file with the Administrative Services Director authorizing the Administrative Services Director or his/her designee to solicit donations of sick leave on the requesting employee's behalf.
  - c. The requesting employee acknowledges that donated leave is not guaranteed and will only be available if donations are received.
  - d. All other rules and regulations of the sick leave policy apply.

### **36.12 VACATION AND PERSONAL DAY BENEFITS**

Vacation and personal day time off with pay is available to eligible employees to provide opportunities for rest, relaxation, and personal pursuits. Employees in the following employment classification(s) are eligible to earn and use vacation time and the allotted personal day as described in this policy:

Regular full-time employees  
Regular part-time employees

Employees who are in an initial probationary status will not earn vacation time until the completion of their probation. Upon the completion of probation, probationary employees will be given a lump sum of vacation equivalent to what would have been earned during the six-month probationary period.

The amount of paid vacation time employees receive each year increases with the length of their employment as shown in the schedule below and accumulates based on the employee's date of employment. Vacation time off is paid at the employee's base rate of pay at the time of vacation.

In addition to the vacation schedule outlined below, each full-time employee will be granted one personal day (8 hours) and each part-time employee will be granted one half personal day (4 hours) each calendar year which may be taken with the approval of the employee's supervisor or Department Head. If a personal day is not taken during the calendar year it may not be carried over into the next calendar year. Upon termination of employment, employees will be paid for unused vacation time that has accrued through the last day of work. Unused personal days are not paid upon termination of employment.



**Vacation Accrual Schedule (based on employment hire date)**

	<b>Part-Time</b>	<b>Full-Time</b>
1 <sup>st</sup> Yr through the end of Yr 4	40 hrs/5 days	80 hrs/10 days
Start of Yr 5 through the end of Yr 10	60 hrs/7.5 days	120 hrs/15 days
Start of Yr 11 through the end of Yr 19	80 hrs/10 days	160 hrs/20 days
Start of Yr 20 and each additional year	100 hrs/12.5 days	200 hrs/25 days

The length of eligible service is calculated on the basis of a "benefit year." This is the 12-month period that begins when the employee is hired. An employee's benefit year may be extended for a personal leave of absence. (See individual leave of absence policies for more information.)

Once employees enter an eligible employment classification (upon completion of probation), they begin to earn paid vacation time according to the schedule. They can request use of vacation time after it is earned. To take vacation, employees must request advance approval from their supervisor. Requests will be reviewed based on a number of factors, including business needs and staffing requirements. Unpaid leaves of absence must be approved by the employee's Department Head and the City Administrator.

The City of Cody will allow full-time employees to carry 80 hours of accrued vacation leave into a new calendar year. Part-time employees may carry 40 hours of accrued vacation leave into a new calendar year. If extraordinary circumstances exist and with the written approval of the appropriate Department Head and the City Administrator, employees may carry over additional vacation time. The written approval must be completed before the end of the calendar year and will be maintained in the employee's personnel file.

**36.13 VOTING TIME OFF**

The City of Cody encourages employees to fulfill their civic responsibilities by participating in elections. Therefore, employees shall be granted up to one (1) hour away from work, such time to be designated by their immediate supervisor, for the purpose of voting in national, state and local elections in accordance with applicable state and federal laws.

**36.14 WORKERS' COMPENSATION INSURANCE**

The City of Cody provides a comprehensive workers' compensation insurance program for its employees. This program covers any injury or illness sustained in the course of employment that requires medical, surgical, or hospital treatment. Subject to

applicable legal requirements, workers' compensation insurance provides benefits after a short waiting period or, if the employee is hospitalized, immediately.

Employees who sustain work-related injuries or illnesses should inform their supervisor immediately and are required to do so within 72 hours. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This enables an eligible employee to qualify for coverage as quickly as possible. Employees injured on the job are required to complete a Worker's Compensation claim form within ten days after the injury becomes apparent.

Neither the City nor the insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's voluntary participation in any off-duty recreational, social, or athletic activity sponsored by the City.

If an employee is injured on the job and the recovery period off the job is eight calendar days or less, Worker's Compensation will not pay for the first three days of the injury - the City will pay those days. If the recovery time off the job is nine days or more, Worker's Compensation will go back to the date of the injury and cover the entire time period. Worker's Compensation pays employees at the rate of 2/3 their gross income. They do not withhold any taxes and injured employees do not report Worker's Compensation income for tax purposes. For additional information about Worker's Compensation, please contact your Department Head or the Administrative Services Director or his/her designee.

Retirement contributions will not be paid while an employee is recovering from a work-related injury. This restriction is mandated by the Wyoming Retirement System. Employees who are being paid a disability (temporary or permanent) by Wyoming Worker's Compensation may not use accrued vacation, sick leave, compensatory time or personal day leave in order to receive extra disability benefits.

Department Heads must complete an accident investigation form for each on-the-job injury. Accidents which do not result in an employee injury must also have an accident investigation form completed which will remain with the Administrative Services Director or his/her designee in an Accident Investigation File.

If there is conflicting information between this document and material provided by Wyoming Worker's Compensation, the Worker's Compensation information should be followed and the employee should contact the Worker's Compensation office.

**36.14.1 City of Cody Memorandum of Understanding:** In the event of an injury resulting from a work-related activity, and the injury is determined an open

case by the Wyoming Worker's Compensation Division and the employee has lost time away from his/her job as prescribed by a medical professional, the City of Cody will give each regular part-time and full-time employee the option to agree to the following:

- The City of Cody will offer to pay the employee any accrued sick leave therefore eliminating the wait for pay from the Wyoming Worker's Compensation Division.
- The employee agrees to reimburse the City of Cody any and all money received from Wyoming Worker's Compensation as a result of the work-related injury within three days of receipt of the money.
- Upon reimbursement of funds, the City of Cody will credit back the equivalent of sick days used on the employee's leave time accrual register.
- Both parties agree to use their best faith efforts at all times.

If the employee chooses the Memorandum of Understanding arrangement over the standard procedures set forth by the Wyoming Worker's Compensation Division, any violation of the Memorandum of Understanding could result in disciplinary action up to and including termination of employment. For further information and details regarding the Memorandum of Understanding, please see the appropriate Department Head, Administrative Services Director or his/her designee.