

CARBON COUNTY PERSONNEL AND BENEFITS MANUAL (2023)

ALL EMPLOYMENT WITH CARBON COUNTY IS EMPLOYMENT AT WILL, EXCEPT FOR CERTAIN DESIGNATED SHERIFF DEPARTMENT EMPLOYEES, AS DEFINED BY W.S. § 18-3-611 (2019 LEXISNEXIS) AS AMENDED FROM TIME TO TIME. THIS MANUAL IS INTENDED AS A GUIDE FOR THE EFFICIENT PERFORMANCE OF YOUR JOB; NOTHING CONTAINED IN THE MANUAL SHALL BE CONSTRUED TO BE A CONTRACT, EITHER EXPRESSED OR IMPLIED, BETWEEN CARBON COUNTY AND THE EMPLOYEE. ADDITIONALLY, THIS MANUAL IS NOT TO BE CONSTRUED BY ANY EMPLOYEE AS CONTAINING BINDING TERMS AND CONDITIONS OF EMPLOYMENT. THE EMPLOYEE RETAINS THE ABSOLUTE RIGHT TO QUIT OR RESIGN, AT ANY TIME, WITH OR WITHOUT GOOD CAUSE. CARBON COUNTY RETAINS THE ABSOLUTE RIGHT TO TERMINATE ANY EMPLOYEE, AT ANY TIME, WITH OR WITHOUT GOOD CAUSE. CARBON COUNTY RETAINS THE RIGHT TO CHANGE, REVOKE, SUSPEND, AND INTERPRET THE CONTENTS OF THIS MANUAL AT ANY TIME AS IT DEEMS NECESSARY OR DESIRABLE, WITH OR WITHOUT NOTICE.

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**CARBON COUNTY
PERSONNEL AND BENEFITS MANUAL
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Chapter I GENERAL PROVISIONS

Section 1. Authority and History of Adoption and Amendment. The Board of County Commissioners promulgated the Carbon County Personnel and Benefits Manual, pursuant to the authority granted in W.S. § 18-2-101(a)(iv) (2007 LexisNexis), by adopting such manual on July 15, 2008, with an effective date of August 1, 2008. The Board of County Commissioners promulgated and adopted amendments to the Carbon County Personnel and Benefits Manual on January 15, 2013, with an effective date of January 16, 2013; April 5, 2016, with an effective date of May 1, 2016; October 20, 2020, with an effective date of October 20, 2020; March 21, 2023, with an effective date of April 3, 2023, and September 19, 2023, with an effective date of October 1, 2023. This Carbon County Personnel and Benefits Manual (2023), together with any appendices [rules and regulations] adopted to implement the provisions of this manual, supercede and replace all previous versions [collectively “manual”].(Amended: 1/15/2013; 4/5/2016; 10/20/2020; 3/21 and 9/19/2023).

Section 2. Employment-at-Will.

(a) **ALL EMPLOYMENT WITH CARBON COUNTY IS EMPLOYMENT AT WILL. THIS MANUAL IS INTENDED AS A GUIDE FOR THE EFFICIENT PERFORMANCE OF YOUR JOB; NOTHING CONTAINED IN THE MANUAL SHALL BE CONSTRUED TO BE A CONTRACT, EITHER EXPRESSED OR IMPLIED, BETWEEN CARBON COUNTY AND THE EMPLOYEE. ADDITIONALLY, THIS MANUAL IS NOT TO BE CONSTRUED BY ANY EMPLOYEE AS CONTAINING BINDING TERMS AND CONDITIONS OF EMPLOYMENT.**

(b) **ALL EMPLOYEES ARE EMPLOYEES-AT-WILL. THE EMPLOYEE RETAINS THE ABSOLUTE RIGHT TO QUIT OR RESIGN, AT ANY TIME, WITH OR WITHOUT GOOD CAUSE. CARBON COUNTY RETAINS THE ABSOLUTE RIGHT TO TERMINATE ANY EMPLOYEE, AT ANY TIME, WITH OR WITHOUT GOOD CAUSE.**

(c) **DESIGNATED SHERIFF DEPARTMENT EMPLOYEES, AS DEFINED BY W.S. § 18-3-611 (2019 LEXISNEXIS) AS AMENDED FROM TIME TO TIME, ARE EXCEPTIONS TO EMPLOYMENT-AT-WILL.**

(d) **CARBON COUNTY RETAINS THE RIGHT TO CHANGE, REVOKE, SUSPEND AND INTERPRET THE CONTENTS OF THIS MANUAL AT ANY TIME AS IT DEEMS NECESSARY OR DESIRABLE, WITH OR WITHOUT NOTICE. (Amended: 10/20/2020)**

Section 3. General Policy.

(a) The Carbon County Personnel and Benefits Manual (2020), together with any appendices [rules and regulations], are statements of general management policy and are not a grant of specific rights to any employee. This manual, together with any appendices [rules and regulations], are for the purpose of providing uniform guidelines for employment and to help each employee obtain a better understanding of their employment with Carbon County.

(b) No elected official, department head or member of the Board of County Commissioners, acting alone, has any authority to enter into any agreement for employment for any specified period of time or to make any agreement contrary to the provisions of this manual or any appendices [rules and regulations]. Such action can occur only by formal vote of the members of the Board of County Commissioners at a legally convened meeting open to the public.

Section 4. Equal Employment Opportunities.

(a) Carbon County does not discriminate against, and provides equal employment opportunities for, all employees and applicants in employment matters, without regard to race, color, sex (including pregnancy and related conditions, sexual orientation, and gender identity or expression), national origin, religion, disability status, age (40 or older), political affiliation, protected veteran status, genetic information (including employer requests for, or purchase, use or disclosure of genetic tests, genetic services, or family medical history), or any other characteristic protected by federal or state laws and regulations, except where specific requirements constitute bona fide occupational qualifications necessary to proper and effective job performance.

(b) Carbon County does not discriminate by engaging in conduct which amounts to retaliation against employees or applicants who have filed a charge of discrimination, have reasonably opposed discrimination or participated in a discrimination lawsuit, investigation or proceeding.

(c) This section applies to all terms and conditions of employment, including but not limited to recruitment, selection, hiring, placement, promotion, termination, layoff, transfer, leaves of absences, compensation, and benefits. (Amended: 1/15/2013; 4/5/2016; 10/20/2020; 3/21/2023)

Section 4.1 Screening and Background Checks.

(a) All applicants for employment with the County are subject to screening procedures and background checks. Employees are subject to being periodically re-checked, including, but not limited to when there has been a change in the employee's status or position with the County

or the employee has entered a nolo contendere or guilty plea or been convicted of a crime. Screening and background checks, and re-checks, are made upon the request of the department head, Human Resources, or the Commissioners.

- (b) Screening and background checks and re-checks may include, but are not limited to:

reference checks, direct background investigations, criminal background and records checks, sex offender registry checks, child abuse register checks, driver's history, and any other sources of information which may be deemed relevant to the position for which the person has applied, holds or to the change in the employee's status or position with the County or the employee's entry of a nolo contendere or guilty plea or conviction of a crime. Screening and background checks and re-checks may be conducted with (where permission is required), or without, prior permission by the person being screened or re-checked.

- (c) Upon request of the department head, Human Resources, or the Commissioners, adequate information must be provided by all applicants and employees in order to allow these screening and background checks or periodic re-checks to be completed. Applicants who refuse permission to conduct initial screening and background checks (where permission is required) or fail to provide the necessary information will not be considered further in the hiring process. Applicants and employees who will be driving County vehicles, or their own personal vehicle, while performing their job duties are subject to additional screening procedures as outlined in Section 56. (Amended: 10/20/2020; 3/21/2023)

Section 4.2 Post-Offer, Pre-Employment Drug Testing. All successful applicants for employment with the County will be asked to sign a written consent to pre-employment drug testing as part of the County's Drug Free Workplace Policy. Applicants who give written consent will be subject to a drug test before beginning employment; if consent is not given, the offer of employment will be immediately rescinded and withdrawn. If a post-offer, pre-employment drug screen is positive, the offer of employment shall be immediately rescinded and withdrawn, or if the applicant has begun working, the employment shall immediately be terminated. The applicant will have five (5) calendar days from the date the applicant is notified of the positive test result in order to contest the positive drug test result, at the applicant's expense. (Amended: 10/20/2020)

Section 5. Definitions.

- (a) "Carbon County" refers to Carbon County, Wyoming, the employer, that acts through its Board of County Commissioners. (Amended: 10/20/2020)

- (b) "Full-time employees" are those reasonably expected by the employer, at the time of hire, to work on average forty (40) hours per work week. Full-time employees receive all benefits described in this manual as determined by Carbon County from time to time. (Amended: 4/5/2016; 10/20/2020)

(c) “Three-quarter time employees” are those reasonably expected by the employer, at the time of hire, to work on average a minimum of thirty (30) hours, but fewer than forty (40) hours, per work week. Three-quarter time employees receive those benefits as described in this manual as determined by Carbon County from time to time. (Amended: 4/5/2016; 10/20/2020)

(d) “Part-time employees” are those reasonably expected by the employer, at the time of hire, to work on average fewer than thirty (30) hours per work week. Part-time employees receive no benefits, unless expressly required by applicable federal or state laws and regulations as may be in effect from time to time, although part-time employees may be covered by Wyoming Workers’ Compensation. (Amended: 4/5/2016; 10/20/2020)

(e) “Temporary employees” are those employed to meet a short-term need or for a specific project or event. Temporary employees receive no benefits, unless expressly required by applicable federal or state laws and regulations as may be in effect from time to time, although temporary employees may be covered by Wyoming Workers’ Compensation. (Amended: 4/5/2016; 10/20/2020)

(f) “Grant-funded employees” are those employed in positions funded pursuant to the terms and conditions of a grant. Grant-funded employees work such hours and receive such wages or salary and benefits as are provided in the grant agreement, or as may specifically be required by applicable federal and state laws and regulations as may be in effect from time to time. In the absence of specific provisions in the grant agreement as to the hours, wages or salary, and/or benefits, such employees are considered temporary employees. (Amended: 1/15/2013; 4/5/2016; 10/20/2020)

(g) “Work year” or “years” or “work month” or “months,” as used in connection with benefits for any employee, means the completion of a full calendar year or a full calendar month of employment with Carbon County.

(h) “Work week” is Sunday, 12:00 a.m., to the following Saturday, 11:59 p.m.

(i) “Elected officials” are those persons who have been elected, or appointed to complete the unexpired term of a person elected, to the following positions: Sheriff, Assessor, Clerk of Court, County Attorney, County Clerk, Treasurer, Coroner, Board of County Commissioners.

(j) “Department head” refers to the elected officials and county employees having day-to-day supervisory control and responsibility over employees who work in a specified department or county office. The term “department head” also refers to and includes the Board of County Commissioners in those circumstances where the Board of County Commissioners directly supervise certain Carbon County employees.

(k) “Employee” refers to all persons employed by Carbon County, other than elected officials.

(l) “Exempt employee” refers to an employee who, under the Fair Labor Standards Act and its regulations, is exempt from the minimum wage requirements and is not entitled to overtime pay for hours actually worked in excess of forty (40) hours in a work week. (Amended: 4/5/2016; 10/20/2020)

(m) “Non-exempt employee” refers to an employee who, under the Fair Labor Standards Act and its regulations, must receive the minimum wage and is entitled to overtime pay for all hours actually worked in excess of forty (40) hours in a work week. (Amended: 10/20/2020)

(n) “Human Resources” refers to the persons/office assigned the tasks of: developing uniform processes for, and maintaining documentation and records related to employees, employee benefits and employee leaves; administering and assisting employees with County provided benefits; providing notifications to employees which are required by this manual and by state and federal laws or regulations; assisting department heads in the recruitment, hiring, and termination of employees; assisting department heads and employees in resolving personnel issues which may arise; and, performing such other employment-related tasks or services, including, but not limited to, training, policy implementation, and employment law compliance as well as such other tasks as may be assigned by the Board of County Commissioners from time to time. (Amended: 1/15/2013; 4/5/2016)

(o) “County Offices” refers, collectively, to the Carbon County Courthouse, the Carbon Building, and other physical buildings and locations where County business is conducted.

Section 6. Application.

(a) The provisions of this manual are applicable to all employees of Carbon County, Wyoming. The provisions are not applicable to any person who: (1) is a volunteer; (2) is appointed to any board; or (3) is employed by other governmental units in any way affiliated with Carbon County, Wyoming, which are separate legal entities vested by statute with the power to sue and be sued. The Carbon County Personnel and Benefits Manual (2023) is not applicable in any manner to the elected officials, except as to Sections 17.1, 20, and 21. It shall be the responsibility of each department head and elected official to administer the provisions of this manual in accordance with the terms and conditions set forth in the manual. These responsibilities include, but are not limited to:

(i) delivery of a copy of this manual to all employees and taking receipt for such delivery, which may be accomplished by Human Resources;

(ii) discussing this manual with all employees to make certain it is understood and employees comply with its provisions;

(iii) maintaining accurate time records for each employee as provided in Section 33 and providing information concerning employees directly to the Payroll Department or Human Resources as may be requested from time to time;

(iv) prohibiting an employee from working and incurring overtime without the express consent of the department head;

(v) reporting and taking prompt and appropriate action concerning all complaints of harassment in accordance with the provisions of this manual, and reporting such information to Human Resources, the Commissioners, and the County Attorney, unless the complaint involves that person, in which event the report is to exclude that person;

(vi) working cooperatively with the Payroll Department and Human Resources;

(vii) making accurate and timely reports to the Payroll Department or Human Resources as may be determined from time to time, concerning employee use of leaves and hours worked;

(viii) immediately reporting to Human Resources those circumstances which may: (1) indicate the need to make reasonable accommodations under the Americans with Disabilities Act/ADA Amendments Act of 2008, as amended from time to time [ADAAA]; (2) the need to provide and designate leave under the Family and Medical Leave Act; (3) circumstances that may indicate an employee is being subjected to harassment of any type; and, (4) such other matters which affect employees and the County. (Amended: 4/5/2016; 10/20/2020)

Section 7. Overview of Organization, Management and Organization. Carbon County, Wyoming, a political subdivision of the State of Wyoming, is the employer. Carbon County is governed by the Board of County Commissioners [collectively, Commissioners]. There are seven elected county officials who supervise the operations of their respective elective offices and discharge their statutory duties with the assistance of persons who are Carbon County employees. In addition, there are Carbon County employees who are responsible for the day-to-day operation of various County departments or who have been employed directly by the Commissioners for the performance of specific County functions, and who may supervise other Carbon County employees; these employees are supervised by the Commissioners.

Section 7.1. Whistle blower Reporting and Protection. Carbon County is committed to operating in furtherance of its governmental purposes and in compliance with all applicable laws, rules, and regulations.

(a) The County prohibits its employees, department heads, elected officials, and members of the Board of County Commissioners from acting, or failing to act when action is required, which results in or constitutes, fraud or fraudulent practices, inappropriate accounting practices, inappropriate internal controls or auditing, gross waste, gross mismanagement, substantial and specific danger to employees or the general public, and, more specifically, results in or constitutes: (1) gross mismanagement of federal contracts and grants; (2) gross waste of federal funds; (3) abuse of authority relating to federal contracts or grants; (4) substantial and specific danger to public health or safety or a violation of law, rule or regulation related to a federal contract.

(b) Employees are encouraged to raise concerns internally with their department head concerning the matters listed in paragraph (a). However, if an employee is not comfortable speaking with their department head, or is not satisfied with the department head's response, the employee may submit their concerns directly to the Board of County Commissioners and/or the County Attorney.

(c) If an employee has reasonable grounds to believe that a County employee, department head, elected official, and/or a member of the Board of County Commissioners have engaged in any action, or failed to act when legally required, concerning the matters listed in paragraph (a), the employee is expected to immediately report such information to the County Attorney, unless the County Attorney is involved, in which event the report would be made to the County Clerk.

(d) All reports will be promptly addressed and an appropriate investigation will be conducted. In conducting its investigation, efforts will be made to try to keep the identity of the reporting employee as confidential as possible while conducting an adequate review and investigation.

(e) Carbon County will not retaliate against an employee because that employee:

(i) reports a violation or possible violation concerning the matters listed in paragraph (a) so long as the employee is acting in good faith and has reasonable grounds for believing the reported information indicates a violation has occurred; or,

(ii) participates in good faith in any resulting investigation or proceeding; or,

(iii) provides to law enforcement personnel or a court, truthful information relating to the violation or possible violation of any applicable laws, rules, or regulations concerning the matters listed in paragraph (a) by a County employee, department head, elected official, or member of the Board of County Commissioners; or,

(iv) exercises his or her rights under any state or federal law, rule or regulation to pursue a claim or take legal action to protect the employee's rights.

(f) Upon completing the investigation, if it is found that the report of a violation or suspected violation was made knowing that it was false and with the intent to harm, retaliate, or defame the person against whom the report was made, appropriate action shall be undertaken to address that behavior. (Amended: 10/20/2020)

Chapter II WORKPLACE EXPECTATIONS

Section 8. Workplace Expectations - No Effect on Employment-at-Will Status. The purpose of providing workplace expectations in this manual is to help employees have a better understanding of their employment with Carbon County. These workplace expectations are not intended to be all inclusive. These workplace expectations are not intended, and do not in any way abrogate any employee's employment-at-will status and do not modify or restrict the County's rights as set forth in Section 2. Employment-at-Will. (Amended: 10/20/2020)

Section 9. Establishment of Additional Work Rules and Expectations by Elected Officials and Department Heads. Elected officials and department heads are responsible for the day-to-day operation of their respective offices and departments and the employees who work in those offices and departments. Elected officials and department heads may establish additional work rules and expectations applicable to their respective offices or departments which supplement the provisions of this manual. The work rules and expectations must be consistent with the provisions of this manual, and, each employee affected must be informed of those work rules and expectations, preferably, in writing. (Amended: 10/20/2020)

Section 10. Confidentiality. No employee shall disclose to any unauthorized person, for any purpose, confidential information acquired in the course of employment or through the unauthorized disclosure by another. Employees are not to casually discuss confidential information either between themselves or with employees in other County offices or departments. (Amended: 10/20/2020)

Section 11. Appearance and Conduct. County employees, while on duty, shall:

(a) Maintain a clean, well-groomed appearance consistent with their position and responsibilities. Clothing that impairs performance, presents a safety hazard or opportunity for injury, or disrupts the workplace or transaction of public business is prohibited. Department heads may establish more specific guidelines from time to time and, each employee affected must be informed of those guidelines, preferably, in writing. (Amended: 10/20/2020) .

(b) Serve the public in a courteous, respectful and impartial manner.

(c) Interact with department heads and co-workers in a courteous, respectful and cordial manner; this includes being respectful and tolerant of differing views, opinions and ideas. (Amended: 10/20/2020)

(d) Comply with the directives and work instructions of the department head.

(e) Exhibit utmost honesty in all dealings for, with and on behalf of Carbon County.

Section 12. Tobacco, E-Cigarettes and Vape-Free Workplace.

(a) The use of any type of tobacco product, including cigarettes, cigars, and “spit tobacco” (such as chewing tobacco and snuff), e-cigarettes, or any type of “vaping” products is prohibited in and on all County owned or leased buildings, property, offices, or other facilities, vehicles, and self-propelled equipment and machinery, except in outdoor designated areas. Employees may use these products in outdoor designated areas during breaks, if breaks are allowed in their respective office or department.

(b) Employees using spit tobacco are responsible for making certain the expectorant is not visible to another employee or any member of the public. Employees using spit tobacco are responsible for discarding the expectorant into properly sealed containers and not allowing it to fall on any trash cans, restroom facilities, benches, floors, steps, or outdoor ground areas.

(c) At the Carbon County Jail property, all types of tobacco products, including cigarettes, cigars, and “spit tobacco” (such as chewing tobacco and snuff), e-cigarettes, and any type of “vaping” products, are strictly prohibited.

(d) Department heads are responsible for enforcing the provisions of this section. Each employee is charged with the responsibility of reporting violations of this policy to their department head, or, in the event of a violation by a department head, to the Commissioners. (Amended: 4/5/2016; 10/20/2020)

Section 13. Personal Expenses; Personal Telephone Calls and Text Messaging; Use of County Supplies and Equipment. No personal expenses are to be charged to the County. Personal telephone calls, cell phone calls, and text messages, are to be kept to a minimum so as not to become a disruption to the workplace, as determined by the department head. Carbon County equipment, machinery, tools, materials and supplies, postage, letterhead, and office supplies are to be used for County business only. Employees may make copies on the County copy machine and pay the cost charged by the County to other outside users. (Amended: 10/20/2020)

Section 14. Damage or Loss of an Employee’s Personal Property. The County is not responsible for damage to or loss of an employee’s personal possessions. Employees are

specifically requested to refrain from keeping personal property of monetary or sentimental value in their offices, desks, or other locations in the workplace. Employees are responsible for safeguarding their personal possessions.

Section 15. Acceptable Use of County Technology.

(a) The County's computer equipment, software, operating systems, storage media, internet connection, electronic mail (e-mail), and cell phones are all important technology assets and resources for the County. These important technology assets and resources are provided for use consistent with the County's business operations. From time to time the Board of County Commissioners may adopt an "Acceptable Use of County Technology" regulation, and a copy shall be provided to each employee. Each employee is required to read and sign the "Acceptable Use of County Technology" regulation as approved from time to time, and is expected to use the County's technology assets and resources in a manner consistent with this policy and that regulation. (Amended: 10/20/2020)

(b) Technology equipment owned by the County is provided to some employees for use in their employment. Those employees must execute a *Carbon County Equipment Agreement* in a form which is approved by the County Commissioners from time to time. By executing that agreement, those employees agree to accept responsibility for and to make proper use of the County's technology equipment delivered to them and such other matters as may be contained in the agreement from time to time. The employee also agrees to be responsible for and repay the County for all technology equipment which is lost, damaged or not returned as provided in the agreement, and is to authorize the County to deduct such charges from the employee's paycheck(s) as a payroll deduction. (Amended: 10/20/2020)

(c) No personal or non-County provided devices, including but not limited to phones, flash drives, music player, discs, or anything else than can, interface with electronics either physically or wirelessly, shall be connected to County equipment (including computers, laptops, printers, copiers, tablets, and any other electronics), County networks (including ethernet, Wi-Fi, Bluetooth, etc.), County infrastructure, or County facilities unless specific written permission from the County Commissioners and/or the Information Technology Director is received prior to any connection. Conversely, no County-provided equipment such as County-issued flash drives, printers, etc., shall be connected to other non-County provided equipment or devices. Specific exemptions may be authorized by the County IT Department for law enforcement purposes or other required government uses. Guest network access shall only be used for non-County provided devices that require temporary, short-term internet access for government business purposes, such as presentations to the Board of County Commissioners or other County departments. (Amended: 3/21/2023)

(d) Employees have no personal right of privacy in any matter created on, received through, or sent from the County's internet connection or e-mail service. The County, in its discretion, reserves the right to monitor and read, retrieve, print, and/or delete any matter created on, received through, or sent from the County's internet connection or e-mail service. (Amended: 10/20/2020)

(e) From time to time the County's Information Technology Director may provide guidances and directives to County employees so as to maintain the operation and security of the County's technology assets and resources. Employees are expected to conduct themselves in accordance with those guidances and directives. (Amended: 10/20/2020)

Section 15.1. Social Media Acceptable Use.

(a) "Social media" refers to a variety of online communities like blogs, chat rooms, web bulletin boards, personal web sites, forums, and social networking sites such as Facebook, Twitter, Instagram, LinkedIn, YouTube, Myspace, to name a few. Social media presents an opportunity for people to exchange information, opinions, and experiences. Only specific County employees are authorized to handle and post information on social media on behalf of Carbon County or its elected official's offices, and such authorized employees are to handle and post information in accordance with such policies, rules and regulations as the Board of County Commissioners adopt from time to time.

(b) County employees are not to use the County's internet connection, the County email system, or the employee's County email address to access, post, or participate in any type of social media, unless it concerns County business and is a part of the employee's job duties. The County, elected officials and department heads may monitor employee use of the computer equipment, software, operating systems, storage media, internet connection, electronic mail (e-mail), and cell phones for compliance with this policy. (Amended: 10/20/2020)

(c) Employees may access personal social media accounts on the employee's personal devices, while at work, but only during an employee's break or with the permission of the department head. Such access must be kept to a minimum and not become a disruption to the workplace, as determined by the department head. County employees are expected to act responsibly, remain productive while at work, and avoid damaging the County in any way when using personal social media accounts.

(d) Employees may maintain personal social media accounts on their own time using their own facilities and devices. The County cannot restrict what employees post on their personal social media accounts on their own time using their own facilities and devices, and nothing in this section is intended to interfere with, restrain or prevent employee

communications regarding wages, hours or other terms and conditions of employment. However, there can be adverse consequences to an employee if an employee discloses confidential information belonging to the County, makes posts which violate the County's policies which prohibit sexual harassment and harassment based upon protected characteristics, are threatening, or somehow damages the County or interferes with its legitimate governmental and business interests in any way.

(e) When posting on personal social media accounts, the employee is solely responsible for what the employee chooses to post. Employees should be thoughtful and careful when posting on their personal social media accounts, and keeping in mind the following:

(i) Ensure that others know that the social media account is the employee's personal social media account and the statements or postings do not represent Carbon County. Do not state or imply that the personal opinions and content are authorized or endorsed by Carbon County.

(ii) No employees have authority to disclose any information belonging to Carbon County on the employee's personal social media account. Employees are prohibited from disclosing or posting confidential information belonging to Carbon County on the employee's personal social media account.

(iii) Employee's should avoid posting any defamatory, harassing, discriminatory, offensive, threatening, or derogatory content as it may be considered a violation of the County's expectations for its employees, or its harassment policy if it is directed towards coworkers, other Carbon County employees, elected officials, or the public. (Amended: 10/20/2020)

Section 16. Bulletin Board for Statutory Notices. A bulletin board for posting statutory employment notices is maintained in the area entering the Human Resources Office. Each employee is responsible to check the bulletin board and the notices on a regular basis.

Section 17. Harassment Prohibited.

(a) Sexual Harassment.

(i) Carbon County prohibits any and all employees, vendors, sales representatives, or visitors from sexually harassing employees in the workplace. Sexual harassment is:

(A) making unwelcome sexual advances or requests for sexual favors, or other verbal, nonverbal or physical conduct of a sexual nature a condition of an employee's employment;

(B) making submission to or rejection of such conduct the basis for employment decisions affecting the employee;

(C) conduct which has the effect of unreasonably interfering with an individual's work performance; or

(D) conduct which has the effect of creating an intimidating, hostile, or offensive working environment.

(ii) Examples of conduct which may constitute sexual harassment include, but are not limited to sexually-oriented verbal or nonverbal kidding, jokes, drawings, gestures; repeated requests or pressure for sexual favors; repeated remarks with sexual or demeaning implications; unwelcome touching such as patting, pinching, hugging, rubbing, brushing against another's body; suggesting or demanding sexual involvement accompanied by implied or explicit threats concerning one's employment status; repeated, offensive sexual flirtations, advances or propositions or innuendo and other sexually oriented statements, and other inappropriate conduct with a sexual contention or connotation; continued or repeated verbal abuse of a sexual nature; graphic verbal or nonverbal commentaries about an individual's body; sexually degrading words used to describe an individual; display of sexually suggestive objects or pictures.

(b) Harassment Based Upon Other Protected Characteristics.

(i) Carbon County prohibits any and all employees, vendors, sales representatives, or visitors from harassing employees based on, or because of, other characteristics which are protected by federal or state law or regulations, such as race, color, sex or gender, sexual orientation, gender identity/ expression, national origin, genetic history, religion, disability status, or age. Such harassment occurs if:

(A) a supervisor's harassing conduct results in a tangible change in an employee's employment status or benefits [for example, demotion, termination, or failure to promote, etc.];

(B) the conduct has the effect of unreasonably interfering with an individual's work performance; or

(C) the conduct has the effect of creating an intimidating, hostile, or offensive working environment. (Amended: 1/15/2013; 4/5/2016; 10/20/2020)

(ii) Examples of conduct which may constitute harassment include, but are not limited to verbal, nonverbal or physical conduct of an offensive nature that is based on any protected characteristics, including offensive comments, jokes, innuendo, drawings, gestures, insults or other forms of inappropriate conduct based on such protected characteristics. It also

includes offensive or harassing statements or conduct motivated by a person's race, color, gender, sexual orientation, gender identity/expression, national origin, genetic history, age, religion, or disability status, or other characteristics which are protected by federal or state law or regulations, whether or not the statements or conduct are overtly derogatory toward those protected characteristics; and, repeated remarks concerning protected characteristics which have demeaning implications. (Amended: 1/15/2013; 4/5/2016; 10/20/2020)

(c) An employee who believes that he or she has been subjected to sexual harassment or harassment based upon other protected characteristics shall immediately report the alleged acts or conduct. A verbal complaint of the harassment may be made initially, but shall then be followed by a written report within five (5) calendar days of the verbal complaint. The complaint shall be made to the employee's immediate supervisor, Human Resources, any department head or elected official, or any member of the Board of County Commissioners. Upon receipt of a report, whether verbal or written, the matter shall immediately be reported by the person receiving the report to the Commissioners, County Attorney and Human Resources. In the event the complaint involves the employee's supervisor, Human Resources, a department head or a member of the Commissioners, the initial report shall exclude that person. (Amended: 1/15/2013; 4/5/2016)

(d) Upon receipt of a complaint, Human Resources, the department head or Commissioners shall immediately cause an investigation to be undertaken by or on behalf of the County. In making the investigation, such outside persons may be utilized as necessary to assist in providing a full, fair, and expedient investigation. (Amended 4/5/2016)

(e) Retaliation against persons who participate in investigations or against employees who make good faith reports of alleged acts of harassment is prohibited. Any retaliatory conduct should be reported as provided in paragraph (c) of this section and will be investigated regardless of the outcome of the underlying charge, complaint or report. Encouraging others to retaliate also violates this section. (Amended: 1/15/2013)

(f) Upon completing the investigation, if it is found that the behavior is sexual harassment, harassment based upon other protected characteristics, or retaliation, appropriate action shall be undertaken to address and stop the behavior and to prevent its re-occurrence. Upon completing the investigation, if it is found that the complaint was made knowing that it was false and with the intent to harm, retaliate, or defame the person against whom the complaint was made, appropriate action shall be undertaken to address that behavior. (Amended: 1/15/2013; 4/5/2016; 10/20/2020)

(g) Complaints of harassment or retaliation and investigations are handled with as much confidentiality as possible under the circumstances. (Amended: 1/15/2013)

Section 17.1. Employee Dating and Romantic Relationships.

(a) Department heads, elected officials, and supervisory employees are prohibited from dating or becoming romantically involved with any County employee that is their subordinate and under their supervision, either directly or indirectly.

(b) Any department head, elected official, supervisory employee, or County employee who dates or becomes romantically involved with any other department head, elected official, supervisory employee, or another County employee shall immediately inform Human Resources and his/her supervisory employee or department head, unless the department head or supervisory employee is involved, in which event Human Resources and the County Clerk are to be immediately informed. The situation will be addressed, as appears appropriate, according to the circumstances, which may include written affirmation by the parties involved that they have been advised of the perils involved in a workplace relationship, counseled concerning the expectations of workplace conduct so as to avoid creating a hostile working environment for others, and the County's policy concerning no harassment in the workplace. (Amended: 10/20/2020)

Section 18. Gratuities. No employee shall solicit, accept or receive commissions, fees, property or anything of monetary value for his or her personal use as a result of any purchasing or other action that he or she shall perform as a part of his or her duties for the County.

Section 19. Conflicts of Interest.

(a) No employee shall advocate or cause the employment, appointment, promotion, transfer or advancement of a family member to a position with the County. No department head or employee shall supervise or manage a family member who is an employee of the County. No employee, acting in their official capacity, shall participate in his/her official responsibility or capacity regarding a matter relating to the employment or discipline of a family member.

(b) No employee shall take an official action in a matter affecting a person or entity with whom the employee is negotiating for prospective employment.

(c) All employees shall disclose, in writing, the nature and extent of the employee's pecuniary interest, or the pecuniary interest of any member of the employee's immediate family, prior to negotiating or entering into a contract, or the letting of any agreement to purchase services, equipment, supplies, or materials on behalf of the County. Such disclosure shall be made to the elected official or department head, or in the case of persons supervised by the Commissioners, to the Board of County Commissioners.

(d) For purposes of this section, "family member" and "immediate family" refers to and means an employee's: spouse, parent, sibling, child, grandparent or grandchild or any person who is a member of the employee's household.

Section 20. Safety. Every employee and elected official is responsible for maintaining a safe work environment and observing all safety rules and regulations. Each employee and elected official shall promptly report all unsafe or potentially unsafe conditions to their department head. Each employee and elected official shall conduct him/herself and handle and operate all County property, including but not limited to office equipment, tools, and vehicles, including off-road vehicles such as self-propelled equipment and machinery, in such a manner as to avoid accidents or injuries to him/herself or others, and loss or damage to any County property. (Amended: 10/20/2020)

Section 21. Employee Accidents and Injuries.

(a) All employees and elected officials shall report on-duty and work-related accidents and injuries as soon as possible, but in any event no later than seventy-two (72) hours after the accident or injury. Employees report such accidents and injuries to their department head; elected officials report to the County Clerk and Human Resources. (Amended 10/20/2020)

(b) Minor injuries requiring only first aid may be treated at the work site. Employees incapacitated by serious injury may be transported to a medical facility by ambulance or other emergency vehicle.

(c) The department head shall prepare a written report of the employee accident or injury within twenty-four (24) hours following the employee's report of the accident and deliver a copy of the report to Human Resources and the County Clerk. The County Clerk shall prepare a written report of the elected official accident or injury within twenty-four (24) hours following the report of the accident and deliver a copy of the report to Human Resources. (Amended 10/20/2020)

(d) Employees and elected officials who are involved in an accident involving a County vehicle, including a personal vehicle used by an employee or elected official to perform his/her work, regardless of how minor the accident may be, shall first notify law enforcement. Employees then notify their department head; the department head will then notify the County Clerk and Human Resources. Elected officials will then notify the County Clerk and Human Resources. (Amended 10/20/2020)

(e) Employees and elected officials who are involved in an accident involving County off-road vehicles such as self-propelled equipment or machinery, regardless of how minor the accident may be, shall first notify law enforcement. Employees then notify their department head; the department head will then notify the County Clerk and Human Resources. Elected officials will then notify the County Clerk and Human Resources. (Amended 4/5/2016; 10/20/2020)

Section 21.1. Anti-Violence Policy. The County recognizes that from time to time employees will have disagreements. However, the County expects those disagreements to be respectful of differing views, opinions, and ideas, and to be conducted in a courteous, respectful, and cordial manner. Employees should work in an environment without physical intimidation, threats, or violence. Such behaviors may include, but are not limited to physical intimidation, threatening violent conduct, violent conduct, assault, battery, vandalism, use of weapons and/or displaying weapons in a threatening manner in the workplace (unless in their official County capacity). Employees should immediately report any such conduct to their supervisor, department head, and Human Resources. Human Resources will promptly investigate such reports, and appropriate action will be taken if such report is substantiated. In the event the conduct involves the employee's supervisor, department head or Human Resources, the initial report shall exclude that person.

Employees should contact law enforcement, security and/or emergency services if the employee reasonably believes there is an imminent threat to the safety and health of themselves, co-workers, or the public. (Amended: 10/20/2020)

Chapter III DRUG-FREE WORKPLACE /DRUG TESTING

Section 22. Drug-Free Workplace.

(a) The Board of County Commissioners believe that employees function most effectively in a drug-free workplace. It shall be the policy of Carbon County that employees shall not manufacture, distribute, dispense, illegally possess, use or be under the influence of alcohol or any controlled substance at work, at any work-related event, or at any other time or place while on/in County property, vehicles, including off-road vehicles such as self-propelled equipment and machinery, and a personal vehicle used by an employee to perform his/her work, or any where employment with the County requires the employee's presence. (Amended: 10/20/2020)

(b) Appropriate personnel action, up to and including termination of employment, will be imposed on an employee who violates the standards required by this policy statement. Referral for prosecution will occur where the behavior is, or appears to be, in violation of the law, or, the County may, at its discretion, require the employee to satisfactorily participate, at the employee's expense, in a drug and/or alcohol abuse assistance or rehabilitation program approved for those purposes by a federal, state or local health, law enforcement, or other appropriate agency. (Amended: 10/20/2020)

(c) Information about any available drug and alcohol counseling, rehabilitation, and employee assistance programs shall be made available to employees, together with a copy of this section. Employees shall be notified that compliance with the standards required by this section is a condition of employment and is mandatory.

(d) Any employee who is convicted or pleads nolo contendere under any criminal drug or alcohol statute for a violation occurring in the workplace shall notify their department head, Human Resources, and the County Clerk no later than five (5) calendar days after the conviction or entry of the plea. The Board of County Commissioners shall be notified by the County Clerk at its next regular meeting. The County has an obligation in some circumstances to notify the appropriate federal granting agencies within ten (10) calendar days after receiving notice of such conviction or plea from an employee, or otherwise receiving actual notice of a conviction or plea of nolo contendere, if there is a relationship between federal funds received by the County and the convicted employee's workplace. The County also has an obligation to impose a sanction on, or require the satisfactory participation and completion of a drug and/or alcohol abuse assistance or rehabilitation program, by any employee who is convicted or pleads nolo contendere under any drug or alcohol criminal statute for a violation occurring in the workplace. (Amended 4/5/2016; 10/20/2020)

(e) Definitions:

(i) Drugs, Controlled Substances or Prohibited Drugs, Drug Paraphernalia and Alcohol. These terms as used in this section are interchangeable and refer to those substances that have been established by state and federal statutes to be controlled substances. These include, but are not limited to cannabis (marijuana), crack, phencyclidine (PCP), LSD, heroin, cocaine, morphine, amphetamines and methamphetamines, barbiturates, opiates, opium and codeine derivatives as well as semi-synthetic opioids such as fentanyl, hydrocodone, oxycodone, hydromorphone, oxymorphone, methaqualone or benzodiazepines. Also included within this definition are the over-the-counter substances and prescriptions being used for a purpose or in a manner other than that prescribed or intended. Alcohol means any spirituous or fermented fluid, substance or compound intended for consumption purposes which contains more than one percent (1%) of alcohol by volume and any fluid substance or compound intended for consumption purposes manufactured from malt, wholly or in part, or from any substitute thereof, containing more than one percent (1%) of alcohol by volume. (Amended 4/5/2016; 10/20/2020)

(ii) Workplace. The workplace includes all property, both real and personal, which belongs to or is leased to or used by the County and includes all County owned or leased buildings, property, offices, or other facilities, vehicles, and off-road vehicles such as self-propelled equipment and machinery, or any vehicle, including a personal vehicle used by an employee to perform his/her work; any work-related event, even if not on County property; and, any other time or place where employment with the County requires the employee's presence. (Amended: 10/20/2020)

(iii) The department head, or in the case of persons supervised by the Commissioners, the Commissioners, are responsible to see that the following information is made available to its employees, on an annual basis:

(A) The dangers of drug and alcohol abuse in the workplace.

(B) The County's policy of maintaining a drug-free workplace and that the observance of the Drug-Free Workplace Policy is a condition of employment.

(C) Any available drug and/or alcohol counseling, rehabilitation programs, including components of an employee assistance program, if one is available. The County does not pay for drug and alcohol counseling and rehabilitation programs; employees may use such insurance benefits as may be provided under the County's plan, if they are a participant.

(D) The penalties that may be imposed upon employees for drug and alcohol violations occurring in the workplace range from a verbal reprimand to termination of employment; referral for prosecution will occur where the behavior is, or appears to be, in violation of the law. A requirement that the employee satisfactorily participate and complete, at the employee's expense, a drug and/or alcohol abuse assistance or rehabilitation program, may be imposed in those circumstances where the employee is not terminated. (Amended: 10/20/2020)

(iv) The notification requirement of subparagraph (iii) above may be performed by Human Resources. The employee must acknowledge receipt of the Drug-Free Workplace Policy and acknowledge that as a condition of employment, the employee: (a) will abide by the terms of the Drug-Free Workplace Policy; and, (b) will notify the County, as provided in the policy, of any criminal drug or alcohol statute conviction or nolo contendere plea for a violation occurring in the workplace no later than five (5) calendar days after the conviction or nolo contendere plea. (Amended: 4/5/2016; 10/20/2020)

(f) The County will make a good faith effort to continue to maintain a drug free workplace through implementation of this Drug-Free Workplace Policy. (Amended: 10/20/2020)

(g) Nothing contained in this section shall in anyway abrogate the employment-at-will status of the County's employees and do not modify or restrict the County's rights as set forth in Section 2. Employment-at-Will. (Amended: 10/20/2020)

Section 22.1. Marijuana. Some neighboring states have legalized the recreational use of marijuana; Wyoming has not. Such laws are designed to prohibit criminal prosecution of individuals who engage in this behavior within that particular state. Use and/or possession of marijuana is a crime in Wyoming, and marijuana is a Schedule I controlled substance under federal law. Federal law applies everywhere within the United States, including those states that permit recreational use of marijuana under state law.

It is possible to obtain a drug test result with a measurable amount of marijuana more than thirty (30) days after it was first ingested. Carbon County has not changed its policy with regard to the use or possession of marijuana, notwithstanding what neighboring states may have done. Consequently, any drug test demonstrating a measurable amount of marijuana is considered a violation of the County's drug-testing policies; the County does not consider whether the use or possession was legal under any particular state law at the time it was first ingested. (Amended: 10/20/2020)

Section 22.2 Report of Certain Prescription Medication. If an employee is taking a prescribed medication that may impair the employee's ability to perform job functions in a safe and satisfactory manner, the employee is required to provide their department head notice of such use. The employee may be required to obtain documentation from their prescribing physician confirming the employee's ability to perform the job functions of their position in a safe and satisfactory manner while taking the prescribed medication. An employee who is unable to perform the job functions of their position in a safe and satisfactory manner due to prescribed medication may be entitled to paid or unpaid leave under other County policies depending upon the circumstances under which the medication is prescribed. (Amended: 10/20/2020)

Section 23. Drug and Alcohol Testing. Carbon County is committed to providing an alcohol and drug-free work environment. The possession, use, transfer, being under the influence and/or sale of alcohol and/or any illegal drug or controlled substance while on duty or in the workplace is strictly prohibited unless the employee possesses a current, legal prescription for the controlled substance, and the employee is able to perform the functions of the job in a safe and satisfactory manner. The County reserves the right to conduct drug and alcohol testing of any of its employees when: (1) there is reasonable suspicion to believe an employee has engaged in the use of alcohol and/or drugs; (2) when an employee has been involved in an accident in which the employee is operating a vehicle or off-road vehicles such as self-propelled equipment or machinery owned, leased, rented or used by or on behalf of the County, including a personal vehicle used by an employee to perform his/her work, and there is (a) a fatality; or (b) one or more persons (including the County employee) requires or required medical treatment either at or away from the accident scene; or (c) the County employee receives a citation arising from the accident; and (3) return-to-duty/follow-up testing as described below. Copies of the results of all drug and alcohol testing shall be provided to the department head and Human Resources. (Amended: 4/5/2016; 10/20/2020)

(a) Reasonable Suspicion Testing. When there is reasonable suspicion to believe an employee has engaged in abuse and/or untimely use of alcohol and/or drugs, the employee may be required to undergo a drug and/or alcohol test. Reasonable suspicion may be based upon and include, but is not limited to: (1) observation of the employee's behavior, which is indicative of drug and/or alcohol use; (2) odor of alcohol on the breath or body; (3) frequent unexplained absences or tardiness; (4) mood swings; (5) the failure to follow directions. Drug and/or alcohol

tests based upon reasonable suspicion are authorized only if the required observations are made during, just before, or just after the period of the work period when the employee must comply with drug and alcohol prohibitions, and must be conducted by a person other than the person who determines reasonable suspicion exists to conduct such a test.

(b) **Employee Post-Accident Testing.** The County shall require an employee to undergo drug and alcohol testing after an accident in which the employee is operating a vehicle or off-road vehicle such as self-propelled equipment or machinery owned, leased, rented or used by or on behalf of the County, including a personal vehicle used by an employee to perform his/her work, if: (1) there is a fatality; or (2) one or more persons (including the County employee) requires or required medical treatment either at or away from the accident scene; or (3) the County employee receives a citation arising from the accident. An employee involved in an accident shall make him/herself readily available for testing, absent the need for immediate medical attention, and shall not use alcohol for eight (8) hours after the accident, or until after he/she undergoes the post-accident alcohol test, or until it is determined that his/her actions were not a contributing factor in the accident, whichever occurs first.

(c) **Return-to-Duty/Follow-up Testing.** Any employee who has not been terminated and is allowed to return to duty after engaging in conduct prohibited by this Section 23 shall undergo either a return-to-duty alcohol test with a result indicating no alcohol concentration and/or shall undergo a return-to-duty drug test with a verified negative result for drug use. In addition, the employee shall agree to submit to unannounced follow-up alcohol and/or drug testing at the employee's expense.

(d) When drug or alcohol testing is necessary as provided in subparagraphs (a) and (b), the employee shall be transported by the County or its designee to the collection site for testing. The employee will be relieved of his/her duties pending the results of the testing and placed on a paid leave-of-absence. The method of transportation shall be determined by the department head or his/her designee; under no circumstances will the employee be permitted to drive themselves to the collection site for testing.

(e) If the employee refuses to undergo the drug or alcohol testing or to complete the consent form, she/he will be advised that such refusal may subject the employee to discipline, including termination. If the employee still refuses to undergo testing or to complete the consent form, she/he will be directed to the department head and is subject to discipline, including termination.

(f) If an employee's test is positive for abuse and/or untimely use of alcohol or drugs, he/she is subject to discipline, including termination.

(g) If an employee's test is positive for abuse and/or untimely use of alcohol or drugs, he/she will be referred to a substance abuse professional. The County is not required, and will

not provide or pay for evaluation, rehabilitation, or treatment. Any evaluation, treatment, or rehabilitation is at the sole expense of the employee.

(h) If the employee's test is positive for abuse and/or untimely use of alcohol or drugs, the County is not required to continue to employ or to reinstate an employee to his/her position. In the event an employee who is subject to testing is returned to work, the employee must have been evaluated by a substance abuse professional, at the employee's expense, complied with any recommended treatment, shall undergo either a return-to-duty alcohol test with a result indicating no alcohol concentration and/or shall undergo a return-to-duty drug test with a verified negative result for drug use. In addition, the employee shall agree to submit to unannounced follow-up alcohol and/or drug testing at the employee's expense, and provide copies of such tests to the employee's department head and Human Resources. The follow-up testing shall be at the direction of his/her substance abuse professional and such testing shall occur a minimum of six times in twelve months. (Amended 4/5/2016)

(i) Each employee shall be provided a copy of all of Chapter III and Alcohol and Drug Testing Procedures as may be approved by the Board of County Commissioners from time to time. Each employee is required to read and sign and provide a receipt acknowledging receipt of these provisions. It is the responsibility of each employee to be familiar with the County's policies and the testing procedures. (Amended: 10/20/2020)

Section 23.1. Drug and Alcohol Testing for County Employees Whose Positions Require Commercial Driver's Licenses. County employees who hold Commercial Driver's Licenses (CDL), and operate commercial motor vehicles while employed by the County, are subject to and must comply with additional rules and regulations imposed by the federal government concerning drug and alcohol testing. The County administers and complies with the applicable federal law and regulations which are in effect from time to time concerning the required drug and alcohol testing for those employees whose positions require a commercial driver's license. (Amended: 10/20/2020)

Section 23.2. No Effect Upon Employment-At-Will. Nothing contained in this Chapter III shall in any way abrogate the employment-at-will status of the County's employees and do not modify or restrict the County's rights as set forth in Section 2. Employment-at-Will. (Amended: 10/20/2020)

Chapter IV EMPLOYEE ATTENDANCE

Section 24. Office Hours. All Carbon County Offices are open to the public from 8:00 a.m. to 5:00 p.m., Monday through Friday, excepting holidays, unless other hours are approved by the Commissioners.

Section 25. Hours of Employment. The hours of all full-time employees, not specifically assigned to work other shifts, are from 8:00 a.m. until 5:00 p.m., with a one-hour lunch break.

Employees are expected to report for work in accordance with their assigned work schedules unless a variation has been approved by their department head. Regular work schedules may be modified from time to time by department heads in order to meet the needs of the particular office or department, including a requirement to work before 8:00 a.m., beyond 5:00 p.m., and on weekends or holidays. (Amended: 4/5/2016)

Section 26. Overtime Hours. Non-exempt employees are not to work in addition to their assigned work schedules, including working during the employee's lunch break or arriving at work before or staying after the assigned work schedule, without the prior written approval of their department head. (Amended: 4/5/2016; 3/31/2023)

Section 27. Lunch and Break Periods.

(a) The time for taking lunch breaks will be established by the department head. Lunch breaks are generally one (1) hour in length and are unpaid. Lunch breaks are not considered "hours worked" for purposes of determining overtime and overtime pay. (Amended: 3/21/2023)

(b) Break periods during the work day may be established by the department head. Employees are not required to take break periods. Employees who elect not to take break periods do not receive additional compensation or comp time since break periods, which are twenty minutes or less in duration, are considered "time worked" for purposes of the assigned work schedules and in determining overtime and overtime pay, whether the employee takes a break period, leaves the County Offices or workplace, or elects not to take the break period. (Amended: 3/21/2023)

(c) Each department head may determine whether to have formal break periods which are scheduled at specified times during the work day or to have "casual" break periods where employees are permitted to engage in personal activities. Employees may leave the County Offices or workplace during break periods but are expected to return to work in a timely fashion. (Amended: 3/21/2023)

(d) Break periods are not to be used to adjust lunch breaks or to shorten the time an employee is present at work during the daily/weekly work schedule, except in exceptional circumstances which are approved by the department head, in advance and in writing. (Amended: 4/5/2016; 3/21/2023)

(e) An employee who has a health care condition that requires breaks of the nature that fall under the Americans with Disabilities Act, as amended, should privately advise the

department head in order for the County to provide appropriate reasonable accommodations.
(Amended: 3/21/2023)

(f) The County provides nursing mothers with breaks to express milk for one year after the child's birth, in a private place that is not a bathroom. Under the FLSA, the County does not pay employees for this break time if it is used separately from any other provided breaks.
(Amended: 3/21/2023)

(g) Department heads monitor employee breaks to ensure that the work does not suffer and that the public is served. Employees should avoid abusing break time by taking too many breaks, taking breaks that are too long, or disturbing staff that are not on break. (Amended: 3/21/2023)

Section 28. Adjustable Work Schedule.

(a) Department heads may make adjustments in the daily/weekly work schedule of employees to allow an employee, occasionally, to attend to appointments during the workday without using sick or vacation time, or incurring unpaid time off. This adjustment is to be the exception rather than the rule.

(b) The adjustment in the daily/weekly work schedule may only be made by adjusting the length of an employee's lunch break and having the employee come to work before or stay after the assigned work schedule. Break periods are not to be used to adjust lunch breaks or to shorten the time an employee is present at work during the daily/weekly work schedule, except in exceptional circumstances which are approved in advance, in writing, by the department head. (Amended: 3/21/2023)

(c) The adjustment in hours worked can occur only within the same workweek the time is to be taken off. Extra time cannot be worked in one workweek to be "credited" against time to be taken off in another workweek or foregoing break periods. The adjustment must be scheduled and approved in advance, in writing, by the department head.

(d) Adjustments shall not be a unilateral employee decision, and no employee has any right to expect that an adjustment will be made by the department head. (Amended: 3/21/2023)

Section 29. Tardiness and Absenteeism. Each employee is expected to maintain their full hours of employment, without tardiness or habitual absenteeism. Unscheduled absences on Fridays and Mondays, or before and after holidays, are strongly discouraged. In order for an employee to avail him/her self of any absence from work, including vacation, sick leave or any other type of leave, the employee must notify his/her department head as far in advance of the scheduled leave as possible, but not less than twenty-four (24) hours prior to the absence, except in an emergency. Absence from work without permission of the department head or without giving notice to the department head is unacceptable employee conduct. Any employee who

absents him/herself from his/her job for three consecutive work days without having the absence authorized by the department head shall be deemed to have resigned and separated from employment.

Chapter V EMPLOYEE COMPENSATION

Section 30. Compensation. The compensation of all department heads, other than elected officials whose compensation is established as provided by state law, is established by the Commissioners as part of the budgeting process. The specific compensation of each employee within a department or an elected official's office shall be established by the elected official or department head as the elected official or department head deems appropriate and is approved by the Commissioners only indirectly as a part of the final budgeting process.

Section 31. Pay Periods. Employees are paid on the last working day of each month. When a pay day falls on a holiday or weekend, paychecks will be issued on the preceding workday. At the employee's option, payment is made by check or direct automatic bank deposit. No salary advances will be given.

Section 32. Payroll Deductions.

(a) Social security, medicare, and federal income taxes are automatically withheld as required by law, as are the employee's portion of the cost of health insurance and other benefits, if elected, which the employee is required to pay, and deductions required by court order or operation of law. Employees may authorize deductions for other benefits and other approved purposes.

(b) Employees receive a pay statement which lists gross and net pay, deductions for the pay period, as well as cumulative deductions for the calendar year. The statement also reflects accumulated and used sick leave and vacation leave, use of other leaves provided by the County, accrued and used compensatory time, if any, and Family Medical Leave used by the employee. Questions concerning the accuracy of payroll checks or the accompanying pay statement should immediately be brought to the attention of the Payroll Department and the employee's department head. All matters will be promptly investigated, and appropriate corrections made as quickly as possible. (Amended: 1/15/2013; 4/5/2016; 10/20/2020)

Section 33. Time Records. Each department head is responsible for maintaining accurate time records which reflect each employee's hours actually worked during each work week and overtime approved by the department head. Each department head is also responsible for maintaining accurate records which reflect during each work week each employee's vacation and sick leave taken, other leave taken, and accrued comp time used. Each employee is

to review their time records for accuracy and to report any errors to the department head prior to the time records being submitted to the Payroll Department. (Amended: 10/20/2020)

Section 34. Non-Exempt Employees: Overtime Pay; Time-Off Plans; Flextime-Off.

(a) Every attempt is made to keep those work situations which result in overtime to a minimum, but due to the nature of the County's work, occasions for overtime may arise. Should a work situation arise where overtime is necessary, overtime is paid at one and one-half (1½) times the employee's regular hourly rate for hours actually worked in excess of forty (40) hours in a workweek. Employees are expected to work overtime when given sufficient notice; every effort will be made to find a replacement for an employee who has a previous commitment, but when not possible, employees will be expected to accept the overtime request.

(b) When overtime is necessary, it must be approved in writing, preferably in advance, by the department head. The overtime hours will then be recorded on the employee time records with a notation of the reason for overtime.

(c) The County allows use of "time-off plans" for its non-exempt employees, if requested by the employee and approved by the department head at the time the overtime work is approved. The time-off plan is allowed only under these conditions:

(i) The employee must receive time off at one and one-half (1 ½) times the hours actually worked in excess of forty (40) hours in a work week; and

(ii) The employee must take the compensatory time off during the same pay period in which it was accrued.

(d) At the discretion of the department head, the County allows the use of "flextime off" for its non-exempt employees in lieu of the employee accruing overtime. If an employee has worked in excess of their regular hours on a single work day, the department head may direct the employee take time off, hour for hour, within the same work week so as to keep the total hours actually worked for the work week within forty (40) hours. (Amended: 10/20/2020)

Section 35. Non-Exempt Employees: Overtime and Accumulation and Use of Compensatory Time Off; Payment for Accrued Compensatory Time.

(a) The County allows non-exempt employees to accrue compensatory time off ("comp time") instead of receiving cash overtime pay, at a rate of one and one-half hours for each hour actually worked in excess of forty (40) hours in a work week. The accrual of "comp time" is allowed only under these limited conditions:

(i) The overtime, and accrual of the time as “comp time” must be approved by the department head at the time the overtime work is approved.

(ii) Law enforcement, fire fighters, emergency response personnel, and employees engaged in seasonal activities may accrue up to four hundred eighty (480) hours of comp time. Other non-exempt County employees may accrue up to two hundred forty (240) hours of comp time. After an employee has accrued the maximum amount of comp time, the County is required to pay the employee overtime pay for the additional overtime hours worked.

(iii) An employee who has accrued compensatory time may request its use and will be permitted to use such time off within a reasonable period after making the request, if the use does not unduly disrupt the operations of the office, department or County. The reasonable period will be determined by considering the customary work practices of the office, department or County, including the normal schedule of work, anticipated peak workloads based on past experience, emergency requirements for staff and services, and the availability of qualified substitute staff.

(iv) Under the FLSA regulations, the County, at its option, may require an employee to use all or any part of the employee’s accrued comp time in any work week or work period. The County, at its option, may pay an employee for all or any part of the employee’s accrued comp time, in any work week or work period, in lieu of providing compensatory time off. Typically, the County will pay all employees for all accrued comp time no later than the last pay period of the County’s fiscal year, and, in order to avoid the creation of an improper deferred compensation program, shall pay all employees for all accrued comp time as of December 31, no later than the last pay period of each calendar year. Payment for accrued compensatory time is paid based upon the employee’s regular rate of pay at the time the employee is paid the comp time payment. (Amended: 10/20/2020)

(v) Upon termination of employment, an employee shall be paid for unused compensatory time at a rate not less than the average regular rate received by such employee during the last three years of the employee’s employment, or the final regular rate received by such employee, whichever is higher.

Section 36. No Overtime or Compensatory Time Off for Exempt Employees.
Employees who are classified as “exempt” under the Fair Labor Standards Act do not receive overtime pay or compensatory time off.

Section 37. Compliance With FLSA Required; Correcting Improper Deductions.

(a) It is the policy of Carbon County to comply with the requirements of the Fair Labor Standards Act, including the salary basis requirements. Department heads, Human Resources, and other administrative employees are prohibited from making improper deductions

from the salaries of exempt employees. Carbon County does not allow deductions that violate the FLSA.

(b) If an exempt employee believes an improper deduction has been made to the employee's salary, the employee should immediately report this to Human Resources and the employee's department head. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, the employee will be promptly reimbursed for the improper deduction.

Chapter VI
EMPLOYEE LEAVES AND HOLIDAYS

Section 38. Holidays and Holiday Leave.

(a) The following are declared legal and paid holidays recognized by Carbon County when County Offices are closed to the public. Whenever a holiday falls on a Sunday, it shall be observed on the following Monday excepting Christmas Eve Day, which is observed as provided in (b) below. Whenever a holiday falls on a Saturday, it shall be observed on the preceding Friday, excepting Christmas Eve Day, which is observed as provided in (b) below. The Carbon County holidays are as follows:

- (i) New Year's Day (January 1); see (c) below for exception.
- (ii) Equality Day (Martin Luther King's Birthday, Third Monday in January)
- (iii) President's Day (Third Monday in February)
- (iv) Memorial Day (Last Monday in May)
- (v) Independence Day (July 4)
- (vi) Labor Day (First Monday in September)
- (vii) Veteran's Day (November 11)
- (viii) Thanksgiving (Fourth Thursday in November and the following Friday)
- (ix) Christmas Eve Day, as set forth in (b) below (Amended: 4/5/2016; 10/20/2020; 3/21/2023)
- (x) Christmas Day (December 25)
- (xi) Any other holiday proclaimed by the Commissioners

(b) Time off for County employees during Christmas Eve Day and Christmas Day sometime varies. The table below sets forth employee time off for Christmas Eve Day and Christmas Day:

Christmas Eve Day Falls on:	Christmas Day Falls on:	Employee Time Off is:
Sunday [December 24]	Monday [December 25]	All Day: Monday [December 25]
Monday [December 24]	Tuesday [December 25]	All Day: Monday [December 24] and Tuesday [December 25]
Tuesday [December 24]	Wednesday [December 25]	Noon to 5 p.m : Tuesday [December 24]; and, All Day: Wednesday [December 25]

Wednesday [December 24]	Thursday [December 25]	All Day: Thursday [December 25] and Friday [December 26]
Thursday [December 24]	Friday [December 25]	Noon to 5 p.m : Thursday [December 24]; and, All Day: Friday [December 25]
Friday [December 24]	Saturday [December 25]	All Day: Friday [December 24]
Saturday [December 24]	Sunday [December 25]	All Day: Monday [December 26]

(Amended: 3/21/2023)

(c) Whenever New Year's Day falls on Thursday, the Courthouse and County Offices will also be closed on the following Friday. (Amended: 3/21/2023)

(d) While the County Offices may be closed, some employees in some departments may be required to work, due to regular scheduling due to the department and/or due to the nature of the work performed by the particular department. (Amended: 1/15/2013; 4/5/2016; 10/20/2020)

(e) If the holiday falls on an employee's day off, the employee is not entitled to take holiday leave on another day, and the employee receives no additional compensation. An employee receiving worker's compensation benefits for lost wages does not receive holiday leave or additional compensation for the holiday during such period. An employee on any type of unpaid leave, or who is using donated sick leave, does not receive holiday leave or additional compensation for any holiday during such period. (Amended: 1/15/2013; 4/5/2016; 10/20/2020)

(f) Holiday leave shall not be accrued. Employees required to work on a holiday shall be entitled to take holiday leave on another day to be designated by the department head and approved by the Commissioners. (Amended 4/5/2016)

(g) Holiday leave is not considered "hours worked" for purposes of determining overtime and overtime pay. (Amended 4/5/2016)

Section 39. Vacation Leave.

(a) Paid vacation leave is earned by all full-time employees and three-quarter time employees. Vacation leave begins to be earned commencing with the date of hire, on a month to month basis, as prorated per subparagraph (d) below. An employee receiving worker's compensation benefits for lost wages does not earn or accumulate any vacation leave during such period. An employee who has been absent from work due to any type of unpaid leave, or has been absent from work because they are using donated sick leave, does not earn or accumulate any vacation leave during such period. (Amended: 1/15/2013; 4/5/2016)

(b) Vacation leave is earned by employees who actually perform work for the full work month, are off work on paid leave, or are using accrued comp time at the following rate, subject to being prorated per subparagraph (d) below:

<u>Years of Continuous Service With Carbon County</u>	<u>Monthly Base Rate for Full-Time Employees</u>	<u>Monthly Base Rate for Three-Quarter Time Employees</u>
1 to 5 years	8 hours/month	6 hours/month
6 to 10 years	11 hours/month	8.25 hours/month
11 to 15 years	15 hours/month	11.25 hours/month
16 years and over	18 hours/month	13.50 hours/month

(c) An increase in an employee's monthly base rate occurs on the first day of the employee's 6th, 11th and 16th working year. The date of employment is the first day of the current period of employment. For purposes of computing years of continuous service, tacking periods of non-continuous employment, or periods of part time employment with periods of full-time or three-quarter time employment, is not permitted. Periods of full-time and three quarter time employment may be tacked, so long as there is no break or interruption of service for purposes of computing years of continuous service. Periods of full-time or three-quarter time employment interrupted by periods of part-time employment are considered a break or interruption of service. (Amended: 1/15/2013; 10/20/2020)

(d) If an employee actually performs work less than a full work month, as defined in Section 5(g), because: (1) the date of hire is other than the first day of the calendar month; or, (2) the date of termination, either voluntary or involuntary, is other than the last day of the calendar month; or, (3) the employee receives worker's compensation benefits for lost wages; or, (4) the employee is absent from work due to any type of unpaid leave; or, (5) the employee is absent from work because they are using donated sick leave, then vacation leave is earned for that particular work month as follows, rather than at the rate described in (b) above:

<u>Calendar Days/Month</u>	<u>Full-Time Employees</u>	<u>Three-Quarter Time Employees</u>
1 to 10 [inclusive of weekends]	None	None
11 to 20 [inclusive of weekends]	One-half of the Employee's Monthly Base Rate	One-half of the Employee's Monthly Base Rate
21 and more [inclusive of weekends] , but less than full work month	Three-fourths of the Employee's Monthly Base Rate	Three-fourths of the Employee's Monthly Base Rate

(Amended: 1/15/2013; 4/5/2016; 10/20/2020)

(e) Vacation leave may be accumulated and carried forward from one calendar year into the next as follows: Full-time employees: not more than 240 hours; three-quarter time employees: not more than 180 hours. (Amended 4/5/2016)

(f) Any accumulated, but unused, vacation leave which is in excess of the amount that can be carried forward from one calendar year into the next shall be lost as of January 1 of each year due to non-use by the employee. (Amended: 4/5/2016)

(g) If a holiday recognized by the County falls during an employee's regularly scheduled vacation leave, the holiday shall not be counted as vacation hours. (Amended 1/15/2013; 4/5/2016; 10/20/2020)

(h) Vacation leave must be used in increments of not less than fifteen (15) minutes. No employee may waive vacation leave and draw double pay by working during the vacation time allowed, unless approved in advance by the department head, County Clerk, and the Commissioners. (Amended: 1/15/2013; 4/5/2016)

(i) Vacation leave cannot be used until earned. Vacation leave is deemed earned on the last work day of the month. For employees whose date of termination, either voluntary or involuntary, is other than the last work day of the month, vacation leave for that particular month is earned as provided in (d) above and is deemed earned on the date of termination. (Amended: 1/15/2013; 4/5/2016; 10/20/2020)

(j) Vacation hours shall not be considered "hours worked" for purposes of determining overtime and overtime pay. (Amended 4/5/2016)

(k) Vacation pay shall be computed at the employee's regular base straight time rate of pay for the job classification to which the employee is assigned at the commencement of the vacation.(Amended: 10/20/2020)

(l) During such time as an employee is receiving worker's compensation benefits for lost wages, the employee may, at the employee's option, use accumulated vacation leave in an amount sufficient to equal the differential between the lost wage benefit from worker's compensation and the employee's usual monthly wage. The employee may exercise that option so long as the use of that accumulated vacation leave will not adversely affect or reduce the employee's monthly benefit for lost wages paid by worker's compensation. (Amended: 1/15/2013; 4/5/2016)

(m) A request for vacation leave is to be made in writing by the employee. Use of vacation leave must be approved in advance in writing by the department head. Vacation leave may be taken at any time of the year, provided the vacation does not conflict with the workload of the department. The department head will determine when employees will take vacations, and the final determination will be governed by the needs and requirements of the department. Any conflict in the scheduling of vacation will be resolved by the department head, taking into account the respective lengths of service of the employees involved, the timeliness of each request for vacation, and any other relevant factors. (Amended: 1/15/2013; 4/5/2016)

Section 40. Paid Sick Leave.

(a) Paid sick leave is granted to all full-time employees and three-quarter time employees. Paid sick leave is granted commencing from the date of hire, on a month to month basis, as prorated per subparagraph (b) below. An employee receiving worker's compensation benefits for lost wages is not granted and does not accumulate any paid sick leave during such period. An employee who has been absent from work due to any type of unpaid leave, or has been absent from work because they are using donated sick leave is not granted and does not accumulate any paid sick leave during such period. Paid sick leave is granted at the following rate for employees who actually perform work for the full work month, or are off work on paid leave or using accrued comp time, as follows:

	<u>Full-Time Employees</u>	<u>Three-Quarter Employees</u>
Sick Leave Granted	8 hours/month	6 hours/month

(Amended: 1/15/2013; 4/5/2016; 10/20/2020)

(b) If an employee actually performs work less than a full work month as defined in Section 5(g), because: (1) the date of hire is other than the first day of the calendar month; or, (2) the date of termination, either voluntary or involuntary, is other than the last day of the calendar month; or, (3) the employee receives worker's compensation benefits for lost wages; or, (4) the

employee is absent from work due to any type of unpaid leave; or, (5) the employee is absent from work because they are using donated sick leave, then paid sick leave is granted and calculated for that particular work month as follows, rather than at the rate described in (a) above:

<u>Calendar Days/Month</u>	<u>Full-Time Employees</u>	<u>Three-Quarter Time Employees</u>
1 to 10 [inclusive of weekends]	None	None
11 to 20 [inclusive of weekends]	4 hours	3 hours
21 and over [inclusive of weekends] but less than full work month	7 hours	5 hours

(Amended: 1/15/2013; 4/5/2016; 10/20/2020)

(c) Paid sick leave is not considered “hours worked” for purposes of determining overtime and overtime pay. (Amended 4/5/2016)

(d) Sick leave may be taken: (1) when the employee or a member of the employee’s immediate family is incapacitated by sickness or injury; (2) for medical, dental or optical appointments for the employee or a member of the employee’s immediate family; (3) to care for a member of the employee’s immediate family due to sickness or injury; (4) when an employee has been exposed to a contagious disease and his/her attendance at work may jeopardize the health of others. (Amended 4/5/2016; 10/20/2020)

(e) For purposes of sick leave, “immediate family” is defined as: spouse, children, stepchildren, grandchildren, step-grandchildren, siblings, son-in-law, daughter-in law, parents, step-parents, parents-in-law, grandparents, other dependent persons, and “significant other” who resides with the employee. (Amended 4/5/2016)

(f) The employee shall notify the department head of the desire to take sick leave as soon as possible on the first day of absence. In the absence of the department head, the absence should be reported to the deputy assistant who shall notify the rest of staff and others as appropriate. If such notification is not made by the employee, the absence may be charged to vacation leave or leave without pay. When making the request for sick leave, the employee shall provide sufficient information so as to allow the department head to determine whether or not the absence qualifies for paid sick leave. The department head, not the employee makes the determination as to whether the requested leave qualifies for paid sick leave. (Amended 4/5/2016; 10/20/2020)

(g) All requests for sick leave must be approved in writing by the department head. The department head may require that sick leave requests be supported by a physician's certification, provided the employee is advised in advance that such certification is required. (Amended 4/5/2016)

(h) Sick leave shall be used in increments of not less than fifteen (15) minutes. Sick leave cannot be used as vacation leave. If an employee's sick leave has been approved by the department head but employee has exhausted paid sick leave, then such leave shall automatically be charged against vacation leave; if the employee has exhausted vacation leave, then such leave shall be without pay, unless, the employee requests that accrued compensatory time, if any, be used. (Amended: 1/15/2013; 4/5/2016)

(i) Sick leave cannot be used until it has been deemed granted. Sick leave is deemed granted on the last work day of the month. For employees whose date of termination, either voluntary or involuntary, is other than the last work day of the calendar month, sick leave for that particular month is deemed granted as provided in (b) above as of the date of termination. Holidays that occur during sick leave shall not be charged against the employee's sick leave. (Amended: 1/15/2013; 4/5/2016)

(j) Sick leave may be accumulated to a total of 480 hours by full-time employees and to a total of 360 hours by three-quarter time employees. A separated employee, or the beneficiary of a deceased employee, shall receive payment at the rate of \$6.25/hour for one-half of the then balance of the accumulated but unused sick leave, up to a maximum of 240 hours for full-time employees and up to a maximum of 180 hours for three-quarter time employees. (Amended 4/5/2016)

(k) During such time as an employee is receiving worker's compensation benefits for lost wages, the employee shall not be eligible to use the employee's accumulated paid sick leave and shall not be eligible to receive a donation of sick leave as provided in Section 41. (Amended 4/5/2016)

(l) Employees shall not willfully violate or misuse this sick leave policy or misrepresent any statement or condition.

Section 41. Donation of Sick Leave.

(a) Employees may donate paid sick leave to another employee who is in need of additional paid sick leave for the employee's personal catastrophic illness. Employees may also donate paid sick leave to another employee who is eligible for Family and Medical Leave for those reasons described in Section 44(d)(i) through (iv) and is in need of additional paid sick leave. (Amended 4/5/2016; 10/20/2020)

(b) “Catastrophic illness” means a serious debilitating illness, injury, impairment or physical or mental condition that has been certified by a physician as likely to result in a loss of ten (10) or more work days and involves:

- (i) Inpatient care (e.g., overnight stay) in a hospital or hospice; or
- (ii) Absence from work due to illness or injury, for a period of more than ten (10) work days, while receiving continuing treatment by or under the supervision of a licensed health care provider or recovering from surgery or treatment of such illness or injury; or
- (iii) Absence from work due to a serious health condition such as diabetes, stroke, heart attack, cancer, kidney disease, etc.; or
- (iv) Absence from work to receive multiple treatments, including any period of recovery from such treatments, from surgery after an accident or other injury, or for a chronic condition such as cancer or kidney disease. (Amended: 1/15/2013)

(c) Employees may receive donated sick leave on the following basis:

(i) The employee in need of additional paid sick leave must have: (A) been employed by the County for a continuous period of at least six (6) months; (B) must be eligible to receive paid sick leave; (C) must have used all of his/her accumulated paid sick leave, accumulated vacation leave and accrued compensatory time, if any, prior to requesting or accepting donated sick leave; and (D) must have been unable to work a regular schedule for a continuous period of ten (10) work days or is eligible for Family and Medical Leave for those reasons described in Section 44(d)(i)-(iv). Approval to receive donated sick leave is dependent upon prior written approval of the department head. (Amended: 1/15/2013; 4/5/2016; 10/20/2020)

(ii) The employee in need may receive a maximum of 240 hours of donated paid sick leave in any twelve-month period of July 1 to June 30 of the following year. (Amended: 10/20/2020)

(iii) The donation of paid sick leave to the employee in need of additional paid sick leave expires sixty (60) calendar days from the date of approval of the department head. The donation of paid sick leave will be charged against the donating employee’s accumulation and transferred on the basis of one hour transferred for one hour paid sick leave. One hour of donated paid sick leave will result in one hour’s pay to the employee receiving the donated paid sick leave paid at the employee’s regular base straight time rate. (Amended 4/5/2016; 10/20/2020)

(iv) All donations are strictly voluntary, and no employee shall be coerced or financially induced to donate sick leave. An employee may donate a maximum total of forty (40) hours of paid sick leave in in any twelve-month period of July 1 to June 30 of the following year,

and may donate paid sick leave only when, after the donation has been made, the donating employee will have not less than eighty (80) hours of paid sick leave remaining.

(v) Requests for donations of paid sick leave will be handled anonymously by Human Resources or the Payroll Department. Donated paid sick leave which is unused by the employee in need shall not be accrued or paid to the employee in need. Upon the expiration of sixty (60) calendar days from the date of approval by the department head, the employee's release to return to work, or the employee's separation from employment, whichever occurs the sooner, any unused donated paid sick leave will be returned to the donating employees in the same proportion as the employee's donation bore to the total paid sick leave donated to the employee in need. (4/5/2016)

(vi) Notwithstanding anything stated herein to the contrary, the employee in need does not earn or accrue vacation leave, does not earn or accrue paid sick leave, does not receive holiday leave or pay, funeral leave or pay, or civic duty leave or pay, or any other paid leave while utilizing donated paid sick leave. (Amended 4/5/2016; 10/20/2020)

(vii) If an employee receiving donated paid sick leave qualified for Family Medical Leave, once the employee has exhausted all of the Family Medical Leave to which the employee is entitled, group health plan benefits are no longer provided by the County, and the employee receiving donated paid sick leave is required to pay the premium for group health care and any other benefits which the employee desires to continue. The payment of the premium for group health care and any other benefits which the employee desires to continue will be due at the same time as if paid by payroll deduction. (Amended: 10/20/2020)

Section 42. Funeral Leave. Funeral leave with pay is granted, from the date of hire, to all full-time and three-quarter time employees as follows:

(a) Not to exceed three (3) regular working days per death, for the death of the employee's spouse, children, stepchildren, grandchildren, step-grandchildren, siblings, son-in-law, daughter-in-law, parents, step-parents, parent-in-law, step-parent-in-law, brother-in-law, sister-in-law, grandparents, grandparents-in-law, other dependent persons, and "significant other" who resided with the employee at the time of death;

(b) Not to exceed one (1) regular working day per death for the death of the employee's aunts, uncles, first cousins, and nieces/nephews.

(c) With written approval of the department head, an employee may use paid sick leave for additional funeral leave due to the death of the persons specified in subparagraph (a).

(d) Funeral leave for the death of persons other than those specified in subparagraphs (a) and (b) may be granted by the department head, but such leave shall either be charged to

vacation leave or shall be leave without pay, or, at the employee's request, accrued compensatory time may be used.

(e) Funeral leave is not considered "hours worked" for purposes of determining overtime and overtime pay. (Amended: 1/15/2013; 4/5/2016)

Section 43. Paid Civic Duty Leave.

(a) There are a number of duties which are civic obligations for which the County provides paid leave. Full time employees shall be eligible from date of hire for paid leave to perform civic duties when such performance conflicts with regular work hours. Civic duty leave shall not be accrued and is not considered "hours worked" for purposes of determining overtime and overtime pay. Use of civic duty leave shall be limited to the actual hours the employee is absent to perform: (1) jury duty; (2) court witness duty resulting from the issuance of a subpoena, provided the employee is not a party to the action; (3) voter registration; (4) voting in elections conducted by public governmental entities; (5) any other civic duty approved by the department head.

(b) Absences for voting and voter registration must be scheduled with the department head in order to provide adequate coverage. Employees subpoenaed as a witness or summoned or selected for jury duty are expected to report for work whenever the court schedule permits.

(c) Payment for civic duty leave shall be limited to actual hours the employee is absent to perform the civic duties, except payment for voting and voter registration shall be limited to one (1) hour. All monies received by the employee from the performance of civic duties, excepting mileage and travel expenses reimbursed, shall be reimbursed by the employee to the County.

Section 44. Family and Medical Leave.

(a) Carbon County provides eligible employees job-protected leave for specified family and medical reasons as provided by the Family and Medical Leave Act [P.L. 103-3, as amended by P.L. 111-84 (National Defense Authorization Act)]. Compliance with Family and Medical Leave Act [FMLA] requirements on the part of employees is mandatory, not elective. The County, not the employee, determines and designates leave which falls under FMLA as family and/or medical leave. (Amended 4/5/2016)

(b) In order to be eligible for Family and Medical Leave [FML], an employee must have been employed by the County for at least twelve (12) total, but not necessarily consecutive, months and have worked at least 1,250 hours during the previous twelve (12) month period immediately preceding the first day of the FMLA leave. These hours must be actual work hours and not just compensated hours (such as for time paid for sick leave, vacation leave, funeral leave, donated sick leave, etc.). (Amended 4/5/2016; 10/20/2020)

(c) For purposes of Family and Medical Leave, the twelve-month period is July 1 to June 30 of the following year.

(d) Eligible employees are entitled to up to twelve (12) work weeks of leave for the following reasons:

(i) Birth of a child or placement of a child for adoption or foster care;

(ii) To bond with a child (leave must be taken within one year of the child's birth or placement);

(iii) To care for the employee's spouse, child, or parent, who has a qualifying serious health condition;

(iv) For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job.

(v) For qualifying exigencies related to the foreign deployment of a covered service member who is the employee's spouse, child, or parent.

(e) An eligible employee who is a covered service member's spouse, child, parent, or next of kin, may also take up to twenty-six (26) work weeks of FMLA leave in a single twelve-month period to care for the covered service member with a serious injury or illness.

(f) The eligible employee's actual work week is the basis for determining the employee's Family and Medical Leave entitlement.

(g) Family and Medical Leave is unpaid leave except for those employees who are receiving worker's compensation benefits for lost wages. For all eligible employees other than those who are receiving worker's compensation benefits for lost wages, the eligible employee is required to use paid sick leave, vacation leave, and/or donated sick leave concurrently with and exhaust such paid leave or time off for all or part of the twelve-week, or twenty-six week, leave period, and to comply with the County's normal paid leave policies. If the employee exhausts his/her paid sick leave, vacation leave, and any donated sick leave, any remaining FML leave shall be unpaid. The employee may, at the employee's option, request to use any accrued compensatory time concurrently with the FML leave, in an amount sufficient to equal the employee's usual monthly wages. The employee's use of accrued compensatory time is considered paid leave or time off for purposes of paragraphs (i) and (k) below. (Amended: 10/20/2020; 9/19/2023)

(h) An employee's twelve (12) week Family and Medical Leave entitlement shall run concurrently with any leave taken under workers' compensation when the injury is one that meets the definition of a serious health condition.

(i) During Family and Medical Leave, Carbon County maintains the employee's health insurance coverage under any group health plan on the same terms as if the employee had continued working. An employee who returns to work for at least thirty (30) calendar days (inclusive of weekends) is considered to have returned to work. An employee who transfers directly from taking FML leave to retirement, or who retires during the first thirty (30) calendar days (inclusive of weekends) after the employee returns to work, is deemed to have returned to work. If the employee chooses not to return to work for at least thirty (30) calendar days (inclusive of weekends) from Family and Medical Leave, the County may be entitled to recover from the employee the contributions it paid to maintain such insurance and non-health benefit premiums during the period when the FML leave was unpaid. Because the County requires the employee to concurrently use and exhaust paid leave or time off for all or part of the FML leave, and allows, at the employee's option and request, to use accrued compensatory time, the County cannot recover its share of the health insurance or other non-health benefit premiums for any period of FML leave that was covered by paid leave or time off. Because FML leave under a disability benefit plan or worker's compensation is not "unpaid leave," the County cannot recover its share of the health insurance premiums or other non-health benefit premiums for any period the employee is receiving worker's compensation benefits for lost wages. (Amended: 10/20/2020; 9/19/2023)

(j) Upon return from Family and Medical Leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits and other employment terms.

(k) Use of Family and Medical Leave does not result in the loss of any employment benefit that accrued prior to the start of an employee's leave. Except for those employees who are utilizing donated paid sick leave or who are receiving worker's compensation benefits for lost wages, an employee who uses paid sick leave or vacation leave, or, at the employee's option, requests to use any accrued compensatory time, concurrently with all or part of the Family and Medical Leave, continues to be granted paid sick leave and to earn and accrue vacation leave during the use of such paid leave or time off. During such time as Family and Medical Leave is unpaid leave, employees do not continue to be granted paid sick leave or to earn and accrue vacation leave. No employee is entitled to paid funeral leave or paid civic duty leave while on Family and Medical Leave. When a holiday falls during a week in which an employee is taking the full week as FML leave, the entire week, including the holiday, is counted as FML leave; however, when a holiday falls during a week when the employee is taking less than the full week as FML leave, the holiday is not counted as FML leave, unless the employee was scheduled and expected to work on the holiday and used FML leave for that day. If the holiday falls during such time as the employee is using paid leave or time off, then the employee receives holiday pay for the holiday and the day is not charged against the employee's sick leave, vacation leave, or accrued compensatory time off (if the employee has requested to use accrued compensatory time

off). If, however, the holiday falls during such time as the FML leave is unpaid leave, then there is no holiday pay or day off and no additional compensation for holidays during such period. Any increase, reduction, or change in such benefits applicable to active employees shall also apply to employees on FML leave. (Amended 4/5/2016; 10/20/2020; 9/19/2023)

(l) A “serious health condition” is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive full calendar days combined with at least two (2) visits to a health care provider or one (1) visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment. (Amended 4/5/2016)

(m) An employee does not need to use Family and Medical Leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the County’s operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

(n) Employees must provide thirty (30) calendar days advance notice of the need to take Family and Medical Leave when the need is foreseeable. When thirty (30) calendar days advance notice is not possible, the employee must provide notice as soon as possible and generally must comply with any of the County’s normal call-in or prior notice procedures. (Amended: 10/20/2020)

(o) Employees do not have to share a medical diagnosis, but must provide enough information for the County to determine if the leave may qualify for Family and Medical Leave Act protection, and must provide the anticipated timing and duration of the leave. Sufficient information may include that the employee is or will be unable to perform job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment by a health care provider is necessary, or circumstances supporting the need for military family leave. Employees must also inform the County if the requested leave is for a reason for which Family and Medical Leave was previously taken or certified.

(p) Employees must provide a certification and may be required to provide periodic recertification supporting the need for leave. The employee is responsible for the payment of all costs and fees charged by their health care provider to provide the certification or periodic recertification. If the County determines the certification or recertification is incomplete, the County will give written notice indicating what additional information is required. (Amended: 10/20/2020)

(q) Once the County becomes aware that an employee's need for leave is for a reason that may qualify under FMLA, or if an employee requests leave, the County must notify the employee whether the employee is eligible for Family and Medical Leave. If the employee is eligible, the notice from the County to the employee must specify any additional information required as well as the employee's rights and responsibilities under FMLA. If the employee is not eligible, the County must provide a reason for the ineligibility. (Amended: 10/20/2020) The County must inform employees if leave will be designated as Family Medical Leave Act-protected and the amount of leave counted against the employee's leave entitlement. If the County determines that the leave is not Family Medical Leave Act-protected, the County must so notify the employee.

(r) It is unlawful for the County to interfere with an employee's FMLA rights or to retaliate against an employee for using or trying to use FMLA leave or opposing any practice made unlawful by FMLA or for involvement in any proceeding under or related to the FMLA.

(s) An employee may file a complaint with the U.S. Department of Labor Wage and Hour Division or may bring a private lawsuit against the County. The Family Medical Leave Act does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

(t) Family and Medical Leave is available under the terms, conditions, requirements and limitations provided by the Family Medical and Leave Act of 1993, as amended, and Code of Federal Regulations as in effect at the time leave is requested by the employee or designated by the County, except as specifically provided in this section.

(u) Each employee shall be provided a copy of terms, conditions, requirements and limitations concerning Family and Medical Leave as may be approved by the Board of County Commissioners from time to time. Each employee is required to read, sign and be familiar with such terms, conditions, requirements and limitations of Family and Medical Leave. (Entire Section 44 Amended: 1/15/2013; paragraphs amended 10/20/2020 as noted)

Section 45. Administrative Leave. Administrative leave may be granted to an employee to participate in meetings, institutes, examinations and other activities directly related to their employment with the County, at the discretion of the department head or Commissioners.

Section 46. Leave Without Pay. Upon demonstration of reasonable cause, requests for leave without pay, not to exceed one calendar year in duration, will be considered on an individual basis, and may be granted to an employee who has been employed with the County for three (3) consecutive years. Requests for leave without pay must be made in writing to the department head and may be granted only with the prior written approval of the department head and the Commissioners. Leave without pay is subject to the needs of the department or office and County. Scheduled increments or adjustments in salary, benefits, or accrual of any benefits of any type whatsoever are not allowed during the period of leave without pay. The employee is responsible for the payment of all costs of group health insurance premiums, if participation is

allowed under the group health insurance plan, and any other non-health benefits which are subject to being continued during a leave without pay. There is no guarantee of continued employment or of a position following such unpaid leave of absence. The failure to return to work on the scheduled date at the conclusion of the leave without pay is considered a voluntary resignation from employment. (Amended: 10/20/2020)

Section 47. Military Leave. Military leave for those who perform duty, voluntarily or involuntarily, in the “Uniformed Services” shall be granted to all eligible employees in accordance with applicable state and federal law as is in effect at the time such leave is requested, including, but not limited to the leave provided by W.S. 19-11-108 (2022 LexisNexis). All benefits which are required to be continued at County expense will be continued during the period of military leave. To the extent required by applicable state and federal law as in effect from time to time, military service is considered service with Carbon County for vesting and benefit accrual purposes. Upon returning, after honorable separation from the service in the Uniformed Services, the employee shall be re-employed in accordance with applicable state and federal law governing veteran’s employment reinstatement. (Amended: 1/15/2013; 10/20/2020)

Section 48. Absence Due to Inclement Weather. During times of inclement weather, the County must continue to provide services to the public. If the roads between an employee’s home and the employee’s workplace are open, it is expected that the employee will make every effort to attend work. Inclement weather is common in Carbon County, and employees should allow extra travel time when necessary, plan ahead, and prepare accordingly, so as to arrive at work on time. If inclement weather prevents an employee from attending work, *i.e.*, the roads are closed between the employee’s home and the employee’s workplace, or, the employee leaves work early (with the department head’s approval) because of inclement weather, the following applies:

(a) Non-exempt employees: Non-exempt employees may elect to use vacation leave or accrued compensatory time, if any. Otherwise, the absence is without pay.

(b) Exempt employees: Exempt employees who do not work any part of the day are deemed to have missed work for personal reasons and will be docked a full day’s pay unless the exempt employee elects to use vacation leave.

(c) The County does not pay for meals or lodging for employees who attend work but cannot return home due to inclement weather unless the employee is out of town on a County approved trip or training. (Amended: 10/20/2020)

Chapter VII EMPLOYEE BENEFITS

Section 49. Health Insurance.

(a) Carbon County provides a group health insurance plan for eligible employees, as defined by the plan which is in effect from time to time, and determines, from time to time, the level of employee and employer contribution toward the cost of such insurance. The health insurance plan contains such benefit terms, conditions, eligibility requirements and levels of coverage as provided by the company selected by the Commissioners and as is determined by the Commissioners from time to time.

(b) The Commissioners reserve the right to change or eliminate the plan, the right to change the company, the right to change, amend, or eliminate the terms, conditions, eligibility requirements, levels of employee and employer contributions to the cost of insurance, and the levels of coverage at any time. No cash payment in lieu of health insurance will be provided to any employee. Any premium determined to be the responsibility of the employee is paid by way of an authorized payroll deduction.

(c) Health insurance benefits, and dental and vision benefits if made available, must be elected by the employee within thirty (30) calendar days of employment or the employee must wait until the next open enrollment unless plan documents state otherwise or unless the employee experiences a qualifying event as defined by the IRS Section 125. (Amended 1/19/2015; 10/20/2020)

(d) Carbon County seeks to comply with the applicable provisions of federal law, as well as applicable rules and regulations as may be in effect from time to time, concerning an employer's legal, as opposed to elective, obligations concerning the provision of health care insurance or plans and/or coverage for eligible employees. The Commissioners reserve the right to make such designations, determinations, declarations, changes and amendments concerning the health care insurance or plans offered, or to be offered, to its eligible employees, as may be required or deemed necessary by the Commissioners in order for the County to comply with such laws, rules and regulations or such laws, rules and regulations as may be adopted in the future which are applicable to the County. (Entire Section Amended 4/5/2016; 10/20/2020)

Section 50. Life Insurance. Carbon County provides life insurance for eligible employees and determines, from time to time, the level of employee and employer contribution toward the cost of such insurance and the employee's family members, if any, to be included in the life insurance plan. The life insurance plan contains such terms, conditions, eligibility requirements and levels of coverage as provided by the company selected by the Commissioners and as is determined by the Commissioners from time to time. The Commissioners reserve the right to change or eliminate the plan, and the right to change the company, as well as the terms, conditions, eligibility requirements, levels of employee and employer contributions to the cost of insurance, and the levels of coverage at any time. Any premium determined to be the responsibility of the employee is paid by way of an authorized payroll deduction. No cash payment in lieu of life insurance will be provided to any employee.

Section 51. Wyoming Retirement System. All employees who are regularly scheduled to work thirty (30) hours or more each work week are participants in the Wyoming Retirement System. The employee's portion of the retirement contribution is withheld from the employee's paycheck and remitted to the retirement system.

Section 52. Wyoming Worker's Compensation.

(a) Carbon County participates in the Wyoming Workers' Compensation Program. A Wyoming Workers' Compensation notice is posted on the County bulletin board located in the area leading to Human Resources. Covered employees are required to report all accidents and injuries to their department head and covered elected officials are required to report all accidents and injuries to Human Resources as soon as possible and no later than the time stated in the posted notice. A written report must also be made in a timely manner and delivered to both the department head and Human Resources.

(b) The County does not pay any wage differential to an employee who has applied for or is receiving payment for lost wages from Workers' Compensation. An employee may, at the employee's option, use accumulated vacation leave and accrued compensation time in an amount sufficient to equal the differential between the lost wage benefit from worker's compensation and the employee's usual monthly wage. The employee may exercise that option so long as the use of that accumulated vacation leave or accrued compensation time will not adversely affect or reduce the employee's monthly benefit for lost wages paid by worker's compensation. (Amended 4/5/2016)

Section 52.1. Employer Provided Uniforms and Work Clothing.

(a) Uniforms and work clothing may be provided to employees upon request by the department head to the Board of County Commissioners during the department's normal budget presentation. If the request is approved and included in the department's budget, employee uniforms and work clothing may be purchased during that fiscal year by the department head.

(b) Any other uniform or work clothing to be purchased for employees outside the normal budgeting process must first be presented to the Board of County Commissioners for approval during a regular meeting. This approval process applies regardless of whether the funds being proposed to be used to purchase uniforms or work clothing are County funds, grant funds, donated funds, etc.

(c) All department heads are expected to use good judgment when purchasing uniforms

and work clothing for employees and shall keep such purchases to a minimum. Department heads shall only purchase the uniforms and work clothing which is necessary to accomplish the job and the occasional purchase for employee pride/morale.

(d) Employees should be aware that such uniform and work clothing provided to employees by the County are typically taxable to the employee as a fringe benefit unless the uniform or work clothing is required by the employee's duties. The County Clerk is required to follow all state and federal laws and regulations regarding taxation of such uniforms and work clothing unless the value is *de minimis* as outlined by the IRS and its regulations. (Amended: 3/21/2023)

Chapter VIII TRAVEL AND EXPENSE REIMBURSEMENT

Section 53. General Policy. Employees must receive prior written approval from their department head, or in the case of persons supervised by the Commissioners, from the Commissioners, for overnight travel. Travel requests must be in writing and include a description of the business purpose of the travel and benefit to the County as well as an estimate of the travel expense. All employees are required to use good business judgment in the selection of lodging, restaurants and mode of transportation.

Section 54. Reimbursement of Travel Expenses. Travel by personal vehicle will be reimbursed at the then applicable mileage rate as established by the Commissioners from time to time. The County will reimburse employees the actual cost incurred for reasonable meals and lodging expense, including room, parking and tax charges as well as miscellaneous travel expenses such as taxi, Uber, Lyft, or similar transportation, and reasonable tips which are incurred while traveling on approved County business. Where group meals are provided at a meeting, employees are expected to participate in that group function at no additional cost to the County. Any meals or lodging expenses incurred for family members or persons accompanying the employee are not reimbursable by the County. The County does not reimburse for alcoholic beverages, in-room movies, or personal telephone calls or other personal expenses. If travel is made using a County vehicle, no claim for mileage reimbursement is to be made. (Amended: 10/20/2020)

Section 55. Expense Reimbursement and Reporting.

(a) In order to be reimbursed, employees must submit itemized receipts for all expenses for which reimbursement is sought. When using a personal credit card, copies of the credit card receipt plus the itemized receipt must be submitted. Expenses which have not been approved in advance, expenses which are not supported by the required itemized receipts, or expenses which are not reasonable in amount are considered personal expenditures and will not be reimbursed. (Amended 4/5/2016)

(b) Reimbursement to employees for hosting meals must be approved in writing in advance by the department head, or in the case of employees supervised by the Commissioners, by the Commissioners. In order to be considered for reimbursement, the meal must be a quiet business meal in a restaurant, hotel dining room, or similar location where the surroundings and atmosphere are conducive to and at which a bona fide business discussion actually occurred. The request for reimbursement must be accompanied by a list of the persons who were present, the business purpose or business discussed and the itemized receipts as described above. Expenses which have not been approved in advance, which are not supported by the required itemized receipts or which are not reasonable in amount are considered personal expenditures and will not be reimbursed.

(c) Reimbursement occurs only after approval by the department head, County Treasurer, Commissioners and County Clerk Accounts Payable Department.

(d) Department heads may designate those County employees who are authorized to use a County credit/debit card for County purchases and travel. Those employees must execute a Debit/Credit Card User Agreement in a form which is approved by the County Commissioners from time to time. By executing that agreement, those employees agree to accept responsibility for the protection and to make proper use of the credit/debit card and such other matters as may be contained in the agreement from time to time. The employee also agrees to be responsible for and repay the County for all improper charges to or for misuse of the debit/credit card as defined in the agreement, and is to authorize the County to deduct such charges due to improper charges or misuse of the debit/credit card from the employee's paycheck(s) as a payroll deduction. (Amended 4/5/2016)

Section 56. Use of County Vehicles.

(a) Only eligible Carbon County employees and elected officials may operate County vehicles and off-road vehicles such as self-propelled equipment or machinery. In order to be eligible to operate a County vehicle as well as off-road vehicles such as self-propelled equipment or machinery, an employee or elected official must possess a driving record which is free of any of the unacceptable driving criteria set forth in paragraph (d) below or such criteria as may be adopted or required by the County's liability and/or property insurer/provider from time to time. In addition, at least annually, all employees and elected officials must, prior to operation of a County vehicle, as well as off-road vehicles such as self-propelled equipment or machinery, complete, sign and/or provide the following information to Human Resources:

- (i) A Release for Driving Record and Personal Information form;
- (ii) A Driver History & Privacy Disclosure Release form;
- (iii) A current copy of his/her driver's license.

(iv) Any other forms or provide any additional information required to obtain a driver history, or as may be required by the County's liability and/or property insurer/provider from time to time. (Amended 4/5/2016; 10/20/2020)

(b) Failure to provide the proper documentation, and to acquire written confirmation of eligibility to drive a County vehicle from the County Clerk's Office, before operating any County vehicle, may result in ineligibility.

(c) Eligibility must be established for all employees and elected officials at least once each year in conjunction with the County's acquiring or renewing its liability and property insurance.

(d) Carbon County does not permit any of its employees or elected officials to operate a motor vehicle, or off-road vehicles such as self-propelled equipment or machinery, in the course and scope of their duties for the County if the employee's or elected official's MVR driving record information reflects any driving information which falls within the unacceptable driving criteria as may be defined or adopted by the County's liability and/or property insurer/provider from time to time. (Amended 4/5/2016; 10/20/2020)

(e) Any employee or elected official who has provided the above information and been deemed eligible to operate a County vehicle or off-road vehicles such as self-propelled equipment or machinery, but who subsequently receives a moving violation or other traffic citation which may result in the employee or elected official developing an unacceptable driving criteria, as may be defined or adopted by the County's liability and/or property insurer/provider from time to time, must notify their department head and the County Clerk's Office and Human Resources, in writing of such within two (2) business days of receipt of the citation. The employee or elected official shall immediately cease driving County vehicles, or off-road vehicles such as self-propelled equipment or machinery, until such time as the citation is resolved in the employee's or elected official's favor. If the employee or elected official develop a motor vehicle record which reflects unacceptable driving criteria as may be defined or adopted by the County's liability and/or property insurer/provider from time to time, the employee or elected official must so notify their department head and the County Clerk's Office and Human Resources, in writing, no later than two (2) business days after the conviction, administrative suspension of driver's license or deferred prosecution. Any employee or elected official who is no longer in compliance with the acceptable driving criteria shall not drive County vehicles, or off-road vehicles such as self-propelled equipment or machinery, until the employee or elected official can comply and meet the acceptable driving criteria. (Amended 4/5/2016; 10/20/2020)

(f) General rules of operation of County vehicles, and off-road vehicles such as self-propelled equipment or machinery, include, but are not limited to:

(i) County vehicles and off-road vehicles such as self-propelled equipment or machinery (except those used by on-call personnel), are not to be used for any personal business.

This includes no personal errands, no transport of the employee's spouse, friends or children on non-County related business or for personal convenience; no transport of pets or personal possessions, other than small personal items necessary to personal comfort (for example, coat, boots, emergency winter gear, purse, lunch carrier, etc.) or to perform the County's business (for example, tools, computer, briefcase, papers, etc.).

(ii) Use of any type of tobacco products, including cigarettes, cigars, or "spit tobacco" (such as chewing tobacco or snuff), or use of e-cigarettes or any type of "vaping" products is prohibited. (Amended 4/5/2016; 10/20/2020)

(iii) All applicable laws shall be followed when driving, including use of seat belts.

(iv) No alcoholic beverages or controlled substances shall be consumed or present in County vehicles or off-road vehicles such as self-propelled equipment or machinery.

(v) Employees are not to operate a County vehicle or off-road vehicles such as self-propelled equipment or machinery while under the influence of alcohol or drugs.

(vi) County vehicles and off-road vehicles such as self-propelled equipment or machinery are to be locked and secured when not in use.

(g) Employees who drive their personal vehicles while working for the County will comply with the general rules of operation. Employees who drive their personal vehicles and their personal insurance, not the County or its insurance or coverage, are fully responsible to pay for any damages to third parties or the employee, the employee's vehicle, any deductibles, and any expenses incurred in the event of an accident or any issues that may arise. (Amended: 3/21/2023)

(h) Non-county employees or elected officials may be transported in County vehicles when such transportation has:

(i) Specifically been authorized in advance, in writing, by the Board of County Commissioners, or by persons specifically designated by the Board to grant such authorization; or

(ii) The persons to be transported are involved in or are participants of the activity or business which necessitates the use of the County vehicle; or

(iii) The persons to be transported are directly involved for or on behalf of the County in the activity or business which necessitates the use of the County vehicle.

(i) Employees are responsible for paying any fines due to moving violations or other traffic citations or parking tickets.

(j) In the event of an accident, the employee must immediately notify law enforcement, then their department head, and the County Clerk's Office, and Human Resources. (Entire Section 56 Amended: 1/15/2013)

Chapter IX EVALUATIONS

Section 57. Evaluations.

(a) The purposes of evaluations, if performed, are to: (1) provide a method to improve the delivery of services by Carbon County; (2) improve job productivity; (3) provide feedback to an employee concerning performance; (4) identify areas of performance that may need improvement so that those areas may be discussed and facilitated where possible; (5) recognize outstanding performance.

(b) Department heads determine when and whether to perform evaluations of employees within their offices or departments.

Chapter X PROBLEM SOLVING/GRIEVANCES

Section 58. Problem Solving.

(a) The Commissioners recognize that problems and disagreements may arise from time to time between and amongst its employees and between employees and their supervisors and department head. Employees are encouraged to settle their differences, informally, in a cooperative, respectful, and confidential manner as between themselves. If this cannot be accomplished, the assistance of the department head(s) and/or Human Resources is to be enlisted to settle the differences which may arise between employees. This is to be done informally and in a cooperative, respectful, and confidential manner.

(b) If the differences involve a department head and employee(s), then a meeting or conference with Human Resources may be requested by either the department head or employee(s) to discuss the problem and solutions and so as to settle the differences. This is to be done informally and in a cooperative, respectful, and confidential manner.

(c) If the problem cannot be resolved at that level, or if the problems and disagreements involve an employee supervised by the Commissioners, a meeting or conference with the Commissioners, department head, if any, Human Resources and employee(s) may be arranged to discuss the problem and its possible solutions in an informal manner. The solution reached by the parties, or the directive of the Commissioners, will be considered the final resolution of the problem.

(d) Except in those instances where an employee believes he or she has been subjected to sexual harassment or harassment based upon other protected characteristics, or other discriminatory conduct, employees are discouraged from contacting individual Commissioners on a one-on-one basis to solve problems, as individual Commissioners lack the authority to do so. (Amended: 4/5/2016; 10/20/2020)

(e) Employees are to use the process found in this Section 58 when an employee believes, in good faith, that the employee has been subjected to intimidating, hostile or offensive conduct on a repeated basis, but the conduct complained of is not based upon a protected characteristic or is not sexually harassing behavior as defined and described in Section 17 Harassment. (Amended: 3/21/2023)

Section 59. ADA/ADAAA Reasonable Accommodations. The County, department heads, and elected officials make employment decisions without regard to disability status, except where specific requirements constitute bona fide occupational qualifications necessary to proper and effective job performance. Employees, and applicants for employment, who wish to request reasonable accommodations of a physical or mental impairment should contact their department head and Human Resources so the interactive process can begin. The County, department heads, and elected officials, will exercise the right to begin the interactive process concerning reasonable accommodations if information comes into its/their possession that the interactive process is appropriate. Employees/applicants are required to participate in and cooperate during the interactive process concerning reasonable accommodations. Human Resources has been designated as the ADA Coordinator to provide information and coordinate compliance with the ADA/ADAAA, as amended from time to time. (Amended: 10/20/2020)

Section 59.1. No Pets; Service Animals and Therapy/Emotional Support Animals.

(a) Employees are not allowed to bring pets to the workplace.

(b) A “service animal” is a dog or miniature horse that is individually trained to do work or perform tasks for an individual with a disability as defined under the ADA/ADAAA, including physical, sensory, psychological, intellectual, or other mental disability. Service animals are working animals, not pets. The work or tasks performed by the service animal must be directly related to the individual’s disability. The provision of emotional support, well-being, comfort or companionship do not constitute work or tasks under ADA/ADAAA.

(i) An employee with a service animal should request an accommodation under ADA/ADAAA. Generally, service dogs are permitted to accompany an employee in all areas of County property and facilities where the employee is allowed to go. A miniature horse is subject to an individualized assessment to determine whether the miniature horse can be accommodated using these assessment factors: (1) whether the miniature horse is housebroken; (2) whether the miniature horse is under the employee’s control; (3) whether the facility can

accommodate the miniature horse's type, size and weight; and (4) whether the miniature horse's presence will compromise legitimate safety requirements necessary for safe operations.

(ii) Service animal owners are responsible for (1) keeping the service animal under their direct control at all times; (2) making certain the service animal does not disturb or disrupt the workplace; (3) immediately cleaning up after the service animal and properly disposing of the service animal's waste or other debris; (4) complying with any relevant city, county or state license and leash laws while the service animal is on County property and facilities; and, (5) damage or injury caused by the service animal.

(iii) An employee may be asked to remove the service animal from County property and facilities if: (1) the service animal is not under the employee's direct control; (2) the service animal is disturbing or disrupting the workplace and, after given an opportunity to get the animal under control, the disruption or disturbance continues; (3) the animal is not housebroken; (4) the presence, behavior, or actions of the service animal constitutes an immediate risk or danger to people and property. If asked to remove the service animal, the employee will be offered the opportunity to return to work and be provided with reasonable assistance at that time so as to be able to continue to performing their job functions. Depending on the seriousness of the animal conduct or repeated misconduct, a service animal may be excluded from County property, temporarily or permanently. If the service animal is excluded, the County will engage in the interactive process with the employee in evaluating reasonable accommodations for the employee.

(c) A therapy or emotional support animal ("therapy animal") is an animal that provides emotional support or passive comfort that alleviates one or more of the identified symptoms or effects of a disability. A therapy animal is not a service animal. Employees with a therapy or emotional support animal should request an accommodation; access for a therapy animal is evaluated similarly to any other request for accommodation through the interactive process. (Amended: 10/20/2020)

Section 59.2. ADA Grievances. The ADA requires that public entities establish a procedure whereby individuals can make complaints of discrimination based on disability status in admission to and access to programs, services, and activities of the public entity. Those persons who have, or believe they have, a grievance under the Americans With Disabilities Act (ADA), as amended from time to time, shall file the grievance, in the form of a complaint, as follows:

(a) The complaint must be filed in writing, or an alternative format, as soon as possible, but not later than sixty (60) days after the alleged discriminatory act occurs, although the time may be extended by a showing of good cause from the complainant. Other arrangements for submission of a complaint, such as an in-person interview or recording in lieu of a written complaint will be made available upon request by persons who have difficulty using a written format.

(b) The complaint must be mailed or delivered in person to the ADA Coordinator, Carbon Building--Courthouse Annex, 215 W. Buffalo Street, Room 218, or PO Box 6, Rawlins, Wyoming 82301. (Amended: 3/21/2023)

(c) The written complaint shall contain as much information as possible, but not less than the following information:

(i) The name, address, and daytime telephone number of the individual making the complaint, and that of any authorized representative.

(ii) A description of the alleged discrimination in sufficient detail to inform the County of the nature and date of time alleged violation, including all persons known to the complainant to have been involved.

(iii) The complaint shall be signed and dated by the complainant or the authorized representative.

(iv) Complaints filed on behalf of third persons shall describe and identify the alleged victims of discrimination.

(d) Within twenty-one (21) calendar days of receipt of the complaint, the ADA Coordinator will meet with the complainant to discuss the complaint and possible resolutions. The ADA Coordinator, shall then cause a thorough, but informal, investigation of the complaint to be made and will consult with staff in the Carbon County Attorney's Office as deemed necessary or desirable. All interested persons shall be afforded an opportunity to present evidence or information relevant to the complaint. If the complainant fails or refuses to meet with the ADA Coordinator, the complainant will be deemed withdrawn by the complainant.

(e) Within thirty (30) calendar days of the meeting with the complainant, the ADA Coordinator will respond in writing, or where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the County, offer options for substantive resolution of the complaint, and provide notice of the rights available to the complainant to appeal to the Board of County Commissioners if the response by the ADA Coordinator does not satisfactorily resolve the issue.

(f) If the response by the ADA Coordinator does not satisfactorily resolve the issue, the complainant may appeal the decision to the Board of County Commissioners within fifteen (15) calendar days after receipt of the ADA Coordinator's response. An appeal is made by mailing, or delivering in person a notice of appeal to the Board of County Commissioners, c/o the County

Clerk, Carbon Building--Courthouse Annex, 215 W. Buffalo Street, Room 218, PO Box 6, Rawlins, Wyoming 82301.

- (g) Within thirty (30) calendar days of receipt of the notice of appeal, the Board of County

Commissioners will meet with the complainant and ADA Coordinator to discuss the complaint and possible resolutions. The Board may review any information developed by the ADA Coordinator

and other information that may be presented by the complainant and ADA Coordinator. Within thirty (30) calendar days of the meeting, the Board of County Commissioner will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape, with a final resolution of the complaint.

- (h) Files of the complaints received, including all decisions and documents and evidence developed during the investigation by the ADA Coordinator, shall be maintained for a period of not less than five years from the date the complaint is filed with the ADA Coordinator.

- (i) Nothing in this grievance procedure shall be construed as preventing an individual from pursuing other remedies, including filing the complaint with any federal agency believed to be appropriate, or a federal district court.

Chapter XI SEPARATION FROM EMPLOYMENT

Section 60. Termination.

- (a) Department heads may terminate employees working in their offices/departments. The Commissioners may terminate employees it supervises. In the event of a department head vacancy, the Commissioners may terminate employees in that department.

- (b) An employee who believes they have been terminated for a legally impermissible reason, *i.e.*, race, color, sex or gender, sexual orientation, gender identity or expression, national origin, religion, disability status, age, political affiliation, protected veteran status, genetic information, any other characteristic protected by federal or state law, or exercise of a constitutionally protected right, is required, within five (5) business days of the effective date of termination to request, in writing, a meeting or conference with the Commissioners. The written notice shall set forth, in detail and with specificity, all facts which establish the legally impermissible reason for the termination. The request for a meeting with the Commissioners shall be delivered to the Carbon County Clerk, the department head involved, Human Resources, and the County Attorney. A meeting will be scheduled with the Commissioners within thirty (30) calendar days of receipt of the request. A request for a meeting does not suspend the effective date of termination. (Amended 4/5/2016)

Section 61. Resignation from Employment. Employees are requested to submit written notice of resignation as far in advance of the effective date of the resignation as possible.

Section 62. Failure to Return from Leave; Job Abandonment–Voluntary Resignation.

(a) Failure to return from an approved leave of absence on the agreed date, without prior written approval to extend the leave, is considered a voluntary resignation. Failure to report to work for three consecutive work days is considered voluntary resignation.

(b) The maximum time period for Family Medical Leave is established by federal law; the County does not extend Family Medical Leave beyond those maximum time periods. (Amended: 3/21/2023)

Section 63. Return of County Property, Equipment and Keys/Final Paycheck. All property belonging to the County must be returned to the County prior to delivery of the employee's final paycheck. The final paycheck shall be available to the employee at the next regular payroll payment date following his or her separation date. The final paycheck will include pay for accrued, but unused vacation, sick leave (subject to the limitations set forth in Section 40), and accrued compensatory time. Any amounts owed to the County by the employee, including but not limited to any amount owed for County issued equipment which is not returned or is damaged, lost or stolen, uniforms not returned, or improper charges to or misuse of the County credit/debit card as described in the Debit/Credit Card User Agreement shall be deducted from the employee's paycheck. (Amended 4/5/2016)

Chapter XII MISCELLANEOUS PROVISIONS

Section 64. Personal Information. Personal data on all employees, such as address, home telephone number, and tax withholding information is to be current and accurate at all times. Each employee is to report any changes in personal data as soon as possible to the department head and Human Resources. The County will not release such personal data to outside agencies, without the permission of the employee, except those to whom such disclosure must be made by law.

Section 65. Personnel Records. The County maintains personnel records on each individual employee concerning the status of accrued vacation, paid sick leave, donated sick leave, hours of work, requests for time off, evaluations, if available, and other pertinent work-related information. Personnel records are the property of the County; however, employees may review their own files, with supervision, at reasonable times during business hours by making such request to Human Resources. (Amended 4/5/2016)

Section 66. Medical Records. Any medical records concerning an employee, such as worker's compensation claims, sick leave doctor reports or Family and Medical Leave

documentation shall be kept in a file separate from the personnel records and shall be considered to be confidential. Internal access to and use of such information shall be in accordance with the requirements of state and federal law.

Section 67. Situations Not Specifically Addressed. It is not possible to cover each and every situation which may arise dealing with employees. The Commissioners shall be the final policy making authority for the County in all personnel matters and shall make the final interpretation of the provisions of this Personnel and Benefit Manual.

Section 68. Employee Acknowledgment and Receipt. Each employee, at the time of receipt of a copy of the manual, and any amendments hereto, shall acknowledge receipt of such in writing. A copy of that receipt shall be placed in the respective personnel file for each employee. Every employee shall make themselves familiar with the contents of the Personnel and Benefit Manual, and any amendments thereto, immediately after receipt.

Section 69. Effective Date. The amendments to the Carbon County Personnel and Benefits Manual (2023) become effective April 3, 2023 and October 1, 2023. The amendments to the Carbon County Personnel and Benefits Manual (2023) as adopted, as well as the amendments to the rules and regulations, supersede and repeal all previous inconsistent provisions. This *Carbon County Personnel and Benefits Manual (2023)* and the referenced and attached Appendices supercede and replace all previous versions. (Amended: 1/15/2013; 4/5/2016; 10/20/2020; 3/21 and 9/19/2023).

Section 70. Authority to Republish/Reformat.

(a) The Carbon County Clerk is authorized to republish and incorporate the fourth amendments into an updated Carbon County Personnel and Benefits Manual, which replaces and supercedes all previous versions of the Carbon County Personnel and Benefits Manual.

(b) The Carbon County Clerk is authorized to, and may, republish and reformat the updated *Carbon County Personnel and Benefits Manual (2023)* in a booklet format for distribution to employees.. (Amended: 1/15/2013; 10/20/2020; 3/21/2023)

APPENDIX A

ACCEPTABLE USE OF COUNTY TECHNOLOGY

The County's computer equipment, software, operating systems, storage media, internet connection, electronic mail (e-mail), and cell phones are all important technology assets and resources for the County. These important technology assets and resources are provided for use consistent with the County's business operations. The Board of County Commissioners have adopted this "Acceptable Use of County Technology" regulation, which may be amended from time to time. Each employee is expected to use the County's technology assets and resources in a manner consistent with Section 15 of the *Carbon County Personnel and Benefits Manual (2023)* and this regulation.

From time to time the County's Information Technology Director may provide guidances and directives to County employees so as to maintain the operation and security of the County's technology assets and resources. Employees are expected to conduct themselves in accordance with those guidances and directives.

A. County's Computer Equipment, Software, Operating Systems, Storage Media, Cell Phones.

Employees are expected to respect, protect, and use the County's computer equipment, software, operating systems, storage media, and cell phones at all times, in a manner so as to not damage or compromise these County assets and resources in any fashion. Employees who receive County technology equipment are responsible for that equipment. Each employee who receives County technology equipment is required to sign and comply with the terms of the *Carbon County Equipment Agreement*, a copy of which is attached as Exhibit A-1.

The introduction of viruses or malicious tampering with any computer equipment, software, operating systems, storage media and cell phones is strictly prohibited. Employees are not to remove or disable anti-virus or security software or re-configure settings and firewalls unless authorized to do so, in writing, by the Information Technology Director.

No personal or non-County provided devices, including but not limited to phones, flash drives, music player, discs, or anything else than can, interface with electronics either physically or wirelessly, shall be connected to County equipment (including computers, laptops, printers, copiers, tablets, and any other electronics), County networks (including ethernet, Wi-Fi, Bluetooth, etc.), County infrastructure, or County facilities unless specific written permission from the County Commissioners and/or the Information Technology Director is received prior to any connection. Conversely, no County-provided equipment such as County-issued flash drives, printers, etc., shall be connected to other non-County provided equipment or devices. Specific exemptions may be authorized by the County IT Department for law enforcement purposes or other required government uses. Guest network access shall only be used for non-County provided devices that require temporary, short term internet access for government business purposes, such as presentations to the Board of County Commissioners or other County

departments.

Employees must not store personal files such as music, video, photographs or games on the County's computer equipment or cell phones.

B. Internet Use Guidelines.

Use of the County's internet connection and services by all employees must be consistent with this acceptable use policy. It is expected that County employees will exercise good judgment and remain productive at work while using the internet. County internet users are required:

- To respect the privacy of other users. For example, users shall not intentionally seek information on, obtain copies of or modify files or data of other users, unless explicit permission to do so has been obtained;
- To respect the legal protection provided to software programs and data by copyrights and licenses;
- To protect data from unauthorized use or disclosure as required by state and federal laws and the requirements of Carbon County's business and governmental purposes;
- To limit personal use of the Internet connection and services to an absolute minimum.

It is not acceptable to use County's internet facilities:

- For activities unrelated to the County's business and governmental purposes;
- To access, post or participate in any type of social media unless during break periods, a part of the employee's job duties, or with the permission of the department head;
- For activities unrelated to official assignments and/or job responsibilities;
- For any illegal purposes, including any unauthorized or illegal acts like hacking, fraud, buying or selling illegal goods;
- To transmit threatening, obscene, or harassing materials or correspondence;
- For unauthorized distribution of Carbon County's data and information or confidential information;
- To interfere with or disrupt network users, services, or equipment;

- For private purposes such as marketing or business transactions;
- For solicitation of any kind, including profit and nonprofit;
- For revealing or publicizing proprietary or confidential information to unauthorized recipients;
- For representing personal opinions as those of Carbon County, Wyoming, or any of its elected officials or Commissioners;
- For uploading or downloading commercial software in violation of its copyright;
- For uploading or downloading pornographic or obscene materials, images or software;
- For intentionally interfering with the normal operation of any Carbon County internet service;
- To visit or connect to suspicious or potentially dangerous sites;
- To connect to or engage in conduct that introduce viruses or malware to infect or damage the County's computer equipment, software, operating systems, and storage media.

C. **E-Mail Use.**

- Every Carbon County employee and elected official is responsible for ensuring that the electronic mail system is used in accordance with this use policy. The e-mail system is part of the business equipment and technology owned by Carbon County, Wyoming, and should be used only for its business and governmental purposes. Personal business should not be conducted by means of the e-mail system and personal use should be kept to an absolute minimum. All of the guidelines developed for the use of the County internet connection and services apply to the use of e-mail.
- Neither elected officials, nor Carbon County employees, have a personal right of privacy in any matter created on, received through, or sent from the County e-mail system. Carbon County, Wyoming, its elected officials, department heads, Commissioners and others, in its/their discretion, reserve the right to monitor and read, retrieve, print, and/or delete any matter created on, received through or sent from the County e-mail system.
- Employees should be aware that even when a message has been erased, it still might be possible to retrieve it from a backup system. Therefore, employees should not rely on the erasure of messages to assume a message is private.

- Even if an employee has a password for the e-mail system, it is impossible to ensure the confidentiality of any message created on, received through, or sent from the County e-mail system. Any employee password used must be known to the employee's department head as a need to access this information may occur during an employee's absence. Employees are not to share their passwords with persons other than the department head.
- No e-mail messages should be created or sent that may constitute intimidating, hostile or offensive material on the basis of race, color, sex or gender, sexual orientation, gender identity or expression, national origin, religion, disability status, age, political affiliation, protected veteran status, genetics, or any other characteristic protected by federal or state laws. Carbon County's policy against sexual harassment and harassment based on other protected characteristics applies fully to the e-mail system.
- Care should be exercised at all times in drafting e-mails as e-mail is as permanent and admissible in courts as paper communications. E-mails, both internal and external, can be subject to production and release under the Wyoming Public Records Act and under court discovery rules.

If an employee has any questions about what constitutes acceptable use of County technology, the employee should ask his/her department head for further guidance and clarification. Any employee who becomes aware of misuse of the County's computer equipment, software, operating systems, and storage media, internet connection or electronic mail (e-mail) should promptly notify their department head, the Information Technology Director, or any member of the Board of County Commissioners.

D. Notice of NO Privacy or Confidentiality for Employees.

Pursuant to the Electronics Communications Privacy Act of 1986 (18 U.S.C. 2510 et seq.), as amended from time to time, notice is hereby given that there are NO facilities provided by this system for sending or receiving PRIVATE or CONFIDENTIAL electronic communications. Carbon County, Wyoming, its elected officials, department heads, Commissioners, employees and others have access to all e-mail and user access requests, and may monitor messages and the County's systems, as necessary to assure efficient performance or appropriate or inappropriate use. Messages relating to or in support of illegal activities will be reported to the appropriate authorities.

Attachment: Exhibit A-1: Carbon County Equipment Agreement
(Amended: 10/20/2020; 3/21/2023)

APPENDIX B

ALCOHOL AND DRUG TESTING

I. Alcohol and Drug Testing—An Overview.

A. Alcohol testing is required for reasonable suspicion, post-accident, and return-to-duty/follow-up. Alcohol testing is performed using an evidential breath testing device (EBT) approved by the National Traffic Safety Administration.

B. Drug testing is required for reasonable suspicion, post-accident, and return-to-duty/follow-up. Drug testing may be conducted, post-offer, pre-employment. Drug testing may include, but not limited to, the following drugs: cannabis (marijuana), crack, phencyclidine (PCP), LSD, heroin, cocaine, morphine, amphetamines and methamphetamines, barbiturates, opiates and opium and codeine derivatives as well as semi-synthetic opioids such as fentanyl, hydrocodone, oxycodone, hydromorphone, oxymorphone, methaqualone or benzodiazepines. Drug testing is conducted by analyzing a urine specimen, or, when available within Carbon County, by using oral fluid specimens.

C. The County does not use DOT forms with references to DOT programs and agencies crossed out for its non-DOT drug and alcohol testing programs.

II. Reasonable Suspicion Testing.

A. When there is reasonable suspicion to believe an employee has engaged in abuse and/or untimely use of alcohol and/or drugs, the employee may be required to undergo a drug and/or alcohol test.

B. Reasonable suspicion may be based upon and include, but is not limited to: a) observation of the employee's behavior, which is indicative of drug and/or alcohol use; b) odor of alcohol on the breath or body; c) frequent unexplained absences or tardiness; d) mood swings; e) the failure to follow directions.

C. Drug and/or alcohol tests based upon reasonable suspicion are authorized only if the required observations are made during, just before, or just after the period of the work period when the employee must comply with drug and alcohol prohibitions; must be conducted by a person other than the person who determines reasonable suspicion exists to conduct such a test. If the alcohol test is not administered within two (2) hours, or, if the drug test is not administered within thirty-two (32) hours of the determination of reasonable suspicion, Human Resources or the department head, shall prepare and maintain a written record explaining why the testing was not done. Attempts to conduct the tests shall terminate if not administered within eight (8) hours after the determination of reasonable suspicion for alcohol or within thirty-two (32) hours after the determination of reasonable suspicion for drugs. (Amended 4/5/2016).

D. When it is reasonably suspected that the abuse and/or untimely use of alcohol or drugs by an employee exists, Human Resources, the department head and/or the designated supervisor shall proceed as described below [All conversations should, whenever possible, involve a witness.] (Amended 4/5/2016):

1. Solicit an explanation from the employee for any behavior which creates a reasonable suspicion to believe the employee has engaged in the abuse and/or untimely use of alcohol or drugs.

2. If the employee cannot satisfactorily explain the behavior, the employee may be requested to undergo a drug and/or alcohol test.

E. The employee shall be transported by the County or its designee to the collection site for testing. The employee will be relieved of his/her duties pending the results of the testing and placed on a paid leave-of-absence. The method of transportation shall be determined by the department head or his/her designee; under no circumstances will the employee suspected of being under the influence be permitted to drive themselves to the collection site. At the collection site, he/she will complete the consent form and a specimen/test result will be obtained. (Amended: 10/20/2020)

F. If the employee refuses to undergo the test or complete the consent form, she/he will be advised that such refusal may subject the employee to discipline, including termination. If the employee still refuses to undergo testing or to complete the consent form, she/he will be directed to the department head and is subject to discipline, including termination.

G. If an employee's drug test is confirmed positive and the employee makes a request to the medical review officer within seventy-two hours that an additional drug confirmation test be conducted (which is conducted at the employee's expense), the employee will be placed on a paid leave-of-absence pending the results of the additional drug confirmation test. If a positive drug test is not confirmed, the employee will return to his/her job.

H. If an employee's test is positive for abuse and/or untimely use of alcohol or drugs, he/she is subject to discipline, including termination.

I. If an employee's test is positive for abuse and/or untimely use of alcohol or drugs, he/she will be referred to a substance abuse professional. The County is not required, and will not provide or pay for evaluation, rehabilitation, or treatment. Any evaluation, treatment, or rehabilitation is at the sole expense of the employee.

J. If the employee's test is positive for abuse and/or untimely use of alcohol or drugs, the County is not required to continue to employ or to reinstate an employee to his/her position. In the event an employee who is subject to testing is returned to work, the employee must have been evaluated by a substance abuse professional, at the employee's expense, complied with any recommended treatment, shall undergo either a return-to-duty alcohol test with a result indicating no alcohol concentration and/or shall undergo a return-to-duty drug test with a verified negative

result for drug use. In addition, the employee shall agree to submit to unannounced follow-up alcohol and/or drug testing at the employee's expense, and provide copies of such tests to the employee's department head and Human Resources. The follow-up testing shall be at the direction of his/her substance abuse professional and such testing shall occur a minimum of six times in twelve months. (Amended 4/5/2016)

K. Human Resources, the department head and/or the designated supervisor who makes the observations leading to a reasonable suspicion test shall make a written record of his/her observations within twenty-four (24) hours of the observed behavior, or before the results of the test are released, whichever is earlier. A copy shall be provided to Human Resources. (Amended 4/5/2016)

L. County personnel designated to determine whether reasonable suspicion exists must receive training concerning the physical, behavioral, speech, and performance indicators of alcohol misuse and additional training on indicators of drug abuse.

III. Employee Post-Accident Testing.

A. The County shall require an employee to undergo drug and alcohol testing after an accident in which the employee is operating a vehicle or off-road vehicle such as self-propelled equipment or machinery owned, leased, rented or used by or on behalf of the County, including a personal vehicle used by an employee to perform his/her work, if: a) there is a fatality; or b) one or more persons (including the County employee) requires or required medical treatment either at or away from the accident scene; or c) the County employee receives a citation arising from the accident.

B. The procedure and advisements set forth in the above paragraphs II. D. 1 and 2 regarding reasonable suspicion testing will be followed, except the employee shall be advised the tests are required as part of the accident investigation.

C. An employee involved in an accident shall make him/herself readily available for testing, absent the need for immediate medical attention. An employee involved in an accident shall not use alcohol for eight (8) hours after the accident, or until after he/she undergoes the post-accident alcohol test, or until it is determined that his/her actions were not a contributing factor in the accident, whichever occurs first.

D. If an alcohol test is not administered within two (2) hours, or if a drug test is not administered within thirty-two (32) hours after the accident, Human Resources and/or the department head shall prepare and maintain written records explaining why the tests were not conducted. Tests will not be given if not administered within eight (8) hours after the accident for alcohol or within thirty-two (32) hours after the accident for drugs. (Amended 4/5/2016)

E. The employee shall be transported by the County or its designee to the collection site for testing. The employee will be relieved of his/her duties pending the results of the testing and placed on a paid leave-of-absence. The method of transportation shall be determined by the

department head or his/her designee; under no circumstances will the employee be permitted to drive themselves to the collection site. At the collection site, he/she will complete the consent form and a specimen/test result will be obtained. (Amended: 10/20/2020)

F. If the employee refuses to undergo the test or complete the consent form, she/he will be advised that such refusal may subject the employee to discipline, including termination. If the employee still refuses to undergo testing or to complete the consent form, she/he will be directed to the department head and is subject to discipline, including termination.

G. If the employee's drug test is confirmed positive and the employee makes a request to the medical review officer within seventy-two hours that an additional confirmation drug test be conducted (which is conducted at the employee's expense), the employee will be placed on a paid leave-of-absence pending the results of the additional drug confirmation test. If a positive drug test is not confirmed, the employee will return to his/her job.

H. If the employee's test is positive for abuse and/or untimely use of alcohol or drugs, he/she is subject to discipline, including termination.

I. If the employee's test is positive for abuse and/or untimely use of alcohol or drugs, he/she will be referred to a substance abuse professional. The County is not required, and will not provide or pay for evaluation, rehabilitation, or treatment. Any evaluation, treatment, or rehabilitation is at the sole expense of the employee.

J. If the employee's test is positive for abuse and/or untimely use of alcohol or drugs, the County is not required to continue to employ or to reinstate an employee to his/her position. In the event an employee who is subject to testing is returned to work, the employee must have been evaluated by a substance abuse professional, at the employee's expense, complied with any recommended treatment, taken a return-to-duty alcohol/drug test; and agreed to be subject to unannounced follow-up testing to be conducted at the employee's expense. In addition, the employee shall agree to submit to unannounced follow-up alcohol and/or drug testing at the employee's expense, and provide copies of such tests to the employee's department head and Human Resources. The follow-up testing shall be at the direction of his/her substance abuse professional and such testing shall occur a minimum of six times in twelve months. (Amended : 10/20/2020)

IV. Return-to-Duty/Follow-up Testing.

A. Any employee who has not been terminated and is allowed to return to duty after engaging in conduct prohibited by Section 23 and this regulation, shall undergo either a return-to-duty alcohol test with a result indicating no alcohol concentration and/or shall undergo a return-to-duty drug test with a verified negative result for drug use. In addition, the employee shall agree to submit to unannounced follow-up alcohol and/or drug testing at the employee's expense, and provide copies of such tests to the employee's department head and Human Resources. The follow-up testing shall be at the direction of his/her substance abuse professional and such testing shall occur a minimum of six times in twelve months.

V. Alcohol Testing and Procedures.

A. The following alcohol-related conduct prohibits an employee from performance of the employee's job duties:

1. having a breath alcohol concentration of 0.02% or greater;
2. using alcohol while in the performance of the employee's duties;
3. performance of the employee's duties or functions within four (4) hours after using alcohol;
4. using alcohol within eight (8) hours after an accident has occurred or until the employee has undergone post-accident alcohol testing; and
5. refusing to submit to an alcohol test.

B. Employees who engage in prohibited alcohol conduct, as set forth above, must immediately be removed from the workplace and are subject to discipline, including termination.

C. In the event a confirmation test registers 0.08% or greater, the employee will be referred to a substance abuse professional. The County is not required, and will not provide or pay for evaluation, rehabilitation, or treatment. Any evaluation, treatment, or rehabilitation is at the sole expense of the employee.

D. In the event the County does not terminate the employee who engages in prohibited alcohol conduct, prior to return to work, the substance abuse professional must provide a written statement to the County stating the employee has successfully completed the rehabilitation program which was prescribed for him/her. The employee must be tested prior to return to work and the result must be less than 0.02%. The employee shall be subject to unannounced follow-up testing to be conducted at the employee's expense. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional, but shall occur a minimum of six times in twelve months.

E. Any confirmation test with a positive result of 0.02% or greater will be documented and may result in discipline, including termination.

F. If a employee's behavior or appearance suggests alcohol misuse, a reasonable suspicion alcohol test must be conducted.

G. All alcohol breath tests shall be conducted on an approved evidential breath testing device (EBT), approved by the National Traffic Safety Administration, by a trained breath alcohol technician (BAT). EBT's shall be able to distinguish alcohol from acetone at the 0.02% alcohol concentration level and shall be capable of testing an air blank prior to each collection of breath and performing an external calibration check. In order to be used in either

screening or confirmation alcohol testing, an EBT shall have a quality assurance plan (QAP) developed by the manufacturer.

H. Testing will be conducted as follows, unless testing procedures and standards have been amended, in which event such amended procedures shall apply, and supercede the procedures set forth herein.

I. Two (2) breath tests are required to determine if a person has prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02% alcohol concentration is considered a “negative” test. If the alcohol concentration is 0.02% or greater, a second or confirmation test must be conducted no earlier than fifteen (15) minutes and no later than thirty (30) minutes after the screening test.

J. Breath alcohol testing will be conducted at a location that affords visual and aural privacy to the employee being tested sufficient to prevent unauthorized persons from seeing or hearing the test results. All necessary equipment, personnel, and materials for breath testing shall be provided at the location where testing is conducted. In some unusual circumstances, such as when it is essential to conduct a test outdoors at the scene of an accident, a test may be conducted at a location that provides visual and aural privacy only to the greatest extent practicable.

K. When the employee to be tested enters the alcohol testing location, the BAT will require the employee to provide positive identification. The BAT shall explain the testing procedure to the employee. The procedure to be followed by the BAT for a screening test is essentially as follows:

1. The BAT shall complete Step I on the breath alcohol testing form. The employee shall then complete Step 2 on the form, signing the certification. Refusal by the employee to sign this certification shall be regarded as a refusal to take the test.

2. An individually sealed mouthpiece shall be opened in view of employee and BAT and attached to the EBT in accordance with the manufacturer’s instructions.

3. The BAT shall instruct the employee to blow forcefully into the mouthpiece for at least six (6) seconds or until the EBT indicates an adequate amount of breath has been obtained. If the EBT provides a printed result, but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the breath test form in the designated space, using a method that will provide clear evidence in the event of removal.

4. If the EBT prints the test results directly onto the form, the BAT shall show the employee the result displayed on the EBT.

5. If the result of the screening test is a breath alcohol concentration of less than 0.02%, then the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall sign the certification and fill in the date in Step 4 of the form.

6. If the employee does not sign the certification in Step 4, the BAT shall note the employee's failure to sign or initial in the "Remarks" section of the form.

7. If the result of the screening test is a blood alcohol concentration of less than 0.02%, no further testing is authorized. The BAT shall transmit the result of less than 0.02% to the County in a confidential manner, and the County shall receive and store the information so as to ensure confidentiality is maintained.

8. If the result of the screening test is an alcohol concentration of 0.02% or greater, a confirmation test shall be performed as provided below.

L. Procedures for confirmation tests (i.e., the screening test results are 0.02% or greater) are as follows:

1. The confirmation test shall be conducted within thirty (30) minutes of the completion of the screening test. The BAT shall instruct the employee not to eat, drink, or put any object or substance in his/her mouth. This time period begins with the completion of the screening test and shall be not earlier than fifteen (15) minutes and not later than 30 minutes after the completion of the screening test. The BAT shall explain to the employee the reason for this requirement (i.e., to prevent any accumulation of mouth alcohol leading to an artificially high reading) and the fact that it is for the employee's benefit. The BAT shall also explain the test will be conducted at the end of the waiting period, even if the employee has disregarded the instruction. If the BAT becomes aware the employee has not complied with the instructions (concerning not to eat, drink, or put any object or substance in his/her mouth, or left the testing area without permission), the BAT shall so note in the "Remarks" section of the form.

2. Before the confirmation test is administered, the BAT shall ensure that the EBT registers 0.00 on an air blank. If the reading is greater than 0.00, the BAT shall test one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument.

3. In the event the screening and confirmation tests results are not identical, the confirmation test result is deemed to be the final result upon which any action shall be based.

4. Following the completion of the testing, the BAT and employee shall date and sign the certification form as described in the procedures for screening tests.

5. The BAT shall transmit all results to the County in a confidential manner.

M. If an employee refuses to complete and sign the breath alcohol testing form (Step 2), to provide breath, to provide an adequate amount of breath, or otherwise cooperate with the testing process in a way that prevents the completion of the test, the refusal shall be noted by the BAT in the “Remarks” section of the form. The testing process shall be terminated, and the BAT shall immediately notify the County. (Any of these actions constitute a “refusal” to be tested.)

N. In the event an employee is unable, or alleges she/he is unable, to provide an amount of breath sufficient to permit a valid breath test because of a medical condition, the BAT shall again instruct the employee to attempt to provide an adequate amount of breath. If the employee refuses to make the attempt, the BAT shall immediately inform the County. If the employee attempts and fails to provide an adequate amount of breath, the County shall direct the employee to obtain, as soon as practical after the attempted test, an evaluation from a licensed physician acceptable to the County, concerning the employee’s medical ability or inability to provide an adequate amount of breath. If the physician determines, in his/her reasonable medical judgment, that a medical condition has, or with a high degree of medical probability could have, precluded the employee from providing an adequate amount of breath, the employee’s failure to provide an adequate amount of breath shall not be deemed a refusal to take the test. If a licensed physician is unable to make such a determination, the employee’s failure to provide an adequate amount of breath shall be regarded as a refusal.

O. Any action by the employee deemed to be a “refusal” will subject the employee to discipline, including termination.

VI. Drug Testing and Procedures.

A. Any unauthorized use of the drugs set forth below is prohibited.

B. Drug testing includes, but is not limited to the following drugs: cannabis (marijuana), crack, phencyclidine (PCP), LSD, heroin, cocaine, morphine, amphetamines and methamphetamines, barbiturates, opiates and opium and codeine derivatives as well as semi-synthetic opioids such as fentanyl, hydrocodone, oxycodone, hydromorphone, oxymorphone, methaqualone or benzodiazepines. Drug testing is conducted by analyzing an employee’s urine specimen in a two (2) stage process requiring a split sample of urine, or, when it becomes available in Carbon County, Wyoming, drug testing may be conducted using oral fluid specimens. Testing by analyzing an employee’s urine specimen will be conducted as follows, unless testing procedures and standards have been amended, in which event such amended procedures shall apply, and supercede the procedures set forth herein.

C. First, a screening test is performed. If it is positive for one or more of the drugs, then a confirmation test is performed for each identified drug.

D. Upon a request to the medical review officer within seventy-two hours of the employee having been notified of a verified positive result, and at the expense of the employee, a test of the split sample may be performed by a second laboratory.

E. All drug test results are reviewed and interpreted by a medical review officer (MRO) before the results are reported to the County.

F. An employee will be removed from the workplace if a positive drug test results and subjects the employee to discipline, including termination. The removal will not take place until the MRO has interviewed the employee and determined the positive drug test results are from the unauthorized use of drugs and no other limited and/or legitimate medical use or explanation exists.

G. If the employee's test is positive, and the employee has not been terminated, the employee cannot be returned to his/her position until she/he has been evaluated by a substance abuse professional or MRO, has complied with recommended rehabilitation, and has a negative result on a return-to-duty drug test. Follow-up testing at the employee's expense to monitor the employee's continued abstinence from drug use is required.

H. To ensure the appropriate chain of custody and specimen control are maintained, the collection of urine specimens and testing will be conducted as follows, unless procedures and standards have been amended, in which event such amended procedures shall apply, and supercede the procedures set forth herein:

1. Upon the donor's arrival at the designated collection site, the collector will request the donor to provide positive identification. The donor will be required to complete a pre-test information form which serves as an identification document for the specimen collected. On the donor's copy of the form, the donor will be allowed to list prescription and non-prescription drugs currently being used (as a "memory jogger") which may affect the outcome of the test.

2. The donor will be required to remove any unnecessary outer garments and to leave any purses, briefcases, or similar items outside the collection area. The donor will be required to wash (with water only) and dry his/her hands before the test is administered. The donor will then remain in the collection area and not have access to water fountains, faucets, soap dispensers, cleaning agents, or any other material which could be used to adulterate the specimen. Any transfer of the specimen from the collection container to another specimen bottle will be observed by the donor.

3. The donor shall urinate into a collection container or a specimen bottle capable of holding at least 45 ml. If a collection container is used, the collection site person, in the presence of the donor, shall pour the urine into two specimen bottles. Thirty (30) ml shall be poured into one bottle to be used as the primary specimen, and at least fifteen (15) ml shall be poured into the other bottle to be used as the split specimen. Both bottles shall be shipped in a single shipping container together with copies one, two, and the split specimen copy of the chain of custody form to the laboratory.

4. If the test result of the primary specimen is positive, the donor may request the medical review officer (MRO) direct the split specimen be tested in a different Department of Health and Human Services (DHHS) - certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen. The MRO shall honor such a request if it is made within seventy-two (72) hours of the donor having been notified of a verified positive test result. When the MRO informs the laboratory in writing that the donor has requested a test of the split specimen, the laboratory shall forward to a different DHHS-approved laboratory the split specimen bottle, with seal intact, a copy of the MRO request, and the split specimen copy of the chain of custody form with appropriate chain of custody entries. The result of the test of the split specimen shall then be transmitted by the second laboratory to the MRO. The cost of the split specimen testing shall be borne by the donor.

5. The identification label(s) on the specimen bottle(s) shall contain the date of collection and required identifying information. The donor providing the specimen shall initial the label on the specimen bottle(s), using initials corresponding with the name on the chain of custody form. The donor providing the specimen(s) is required to read and sign a certification statement certifying the urine in the specimen bottle(s) came from his/her body at the time of collection. Refusal to sign this statement will be noted on the certification statement form by the collector. Refusal to sign the statement may result in discipline, including termination.

6. Upon notification by the collection site that a donor has failed to appear for his/her scheduled collection, the County will inquire of donor the reason(s) for failing to appear. If the donor provides a legitimate reason for failing to report, no disciplinary action will be taken against the employee; if no legitimate reason for failing to report is provided, disciplinary action, including termination, may be taken. The department head shall determine whether or not legitimate reasons exist.

7. In the event a donor refuses to provide a specimen, the collection site and/or the County shall advise the donor that refusal to provide a specimen shall result in termination. In the event the donor still refuses to provide a specimen, the donor shall be terminated.

8. In the event a donor fails to provide a sufficient quantity of urine (i.e., at least 45 ml), the collection site will meet with the donor to see if she/he has a legitimate reason, and she/he will be required to take the drug test within four (4) hours of the meeting. If the donor does not have a legitimate reason, the failure to provide a sufficient quantity of urine shall be treated as a refusal to provide a specimen. In the event a donor is unable, or alleges she/he is unable, to provide a sufficient quantity of urine because of a medical condition, the collection site shall again instruct the donor to attempt to provide a sufficient quantity of urine. If the donor refuses to make the attempt, the collection site shall immediately inform the County. If the donor attempts and fails to provide a sufficient quantity of urine, the County shall direct the donor to obtain, as soon as practical after the attempted test, an evaluation from a licensed physician acceptable to the County, concerning the employee's medical ability or inability to provide a sufficient quantity of urine. If the physician determines, in his/her reasonable medical judgment, that a medical condition has, or with a high degree of medical probability could have,

precluded the donor from providing a sufficient quantity of urine, the donor's failure to provide a sufficient quantity of urine shall not be deemed a refusal to take the test. If a licensed physician is unable to make such a determination, the donor's failure to provide a sufficient quantity of urine shall be regarded as a refusal.

I. Drug testing programs are now allowed to use oral fluid specimens (Federal Register/Vol. 84, No. 207/ Friday, October 25, 2019). When such a method of testing for drugs becomes available in Carbon County, the County may elect to use oral fluid specimens in addition to, or in lieu of drug testing using urine specimens. Such oral fluid specimen testing for drugs shall be done in accordance with the rules and regulations adopted and set forth in Federal Register/Vol. 84, No. 207/ Friday, October 25, 2019, as may be amended from time to time.

J. All employees have the right to refuse to undergo drug testing as provided herein. Employees who refuse to undergo testing will be terminated.

VII. Notification and Reporting Certain Prescription Medications

A. If an employee is taking a prescribed medication that may impair the employee's ability to perform job functions in a safe and satisfactory manner, the employee is required to provide their department head notice of such use. The employee may be required to obtain documentation from their prescribing physician confirming the employee's ability to perform the job functions of their position in a safe and satisfactory manner while taking the prescribed medication. Employees shall not drive at any time they have been advised by a physician that it will adversely affect his/her ability to safely operate a vehicle, off-road vehicles such as self-propelled equipment or machinery, or any other type of equipment.

VIII. Confidentiality. All records maintained by the County pursuant to the policy are confidential. Employee information contained in these records may not be released except as provided by law and to the decision-maker in a lawsuit; grievance or other proceeding involving an employee, arising out of a test administered pursuant to this policy or a determination that the employee engaged in prohibited conduct. Such proceedings include, without limitation: workers' compensation; unemployment compensation or other benefit-related proceedings; any other person when authorized in writing by the employee.

IX. Advisement of Alcohol and Drug Testing. Each employee shall be provided a copy of all of Chapter III of the Carbon County Personnel and Benefits Manual (2020) and this Alcohol and Drug Testing regulation, as may be approved by the Board of County Commissioners from time to time. Each employee is required to read and sign and provide a receipt acknowledging receipt of these provisions. It is the responsibility of each employee to be familiar with the County's policies and the provisions of this Appendix B.

X. AT WILL EMPLOYMENT STATUS MAINTAINED. Nothing in this regulation shall in any way abrogate the employment-at-will status of the County's employees and do not modify or restrict the County's rights as set forth in Section 2. Employment-at-Will, *Carbon County Personnel and Benefits Manual (2020)*.

Attachment: Chapter III.

(Amended: 10/20/2020)

APPENDIX C

FAMILY AND MEDICAL LEAVE

The following apply to Family and Medical Leave (FML) for eligible County employees:

1. **Eligibility For Leave.**

(a) To be eligible for FML and its related benefits, an employee must:

(i) have been employed with the County for at least twelve (12) total, but not necessarily consecutive, months; (Amended: 4/5/2016) and,

(ii) have worked at least 1,250 hours during the previous twelve (12) month period immediately preceding the first day of the FMLA leave. These hours must be actual work hours and not just compensated hours (such as for time paid for sick leave, vacation leave, funeral leave, donated sick leave, etc.).

(b) Separate periods of employment with the County in which the break in service exceeds seven (7) years will not be counted in determining FML eligibility, unless the break is occasioned by the employee's fulfillment of a National Guard or Reserve military obligation.

(c) FML is equally available to male and female employees, regardless of which Qualifying Event, described in Paragraph 3, triggers the entitlement to leave.

2. **Twelve (12) Month Period.** The twelve (12) month period (leave year) is designated to be the County's fiscal year, *i.e.*, July 1 through June 30 of the following year.

3. **Qualifying Events for Family Medical Leave.**

(a) An eligible employee is entitled to up to a total of twelve (12) work weeks of unpaid leave during the twelve (12) month period defined in Paragraph 2, for one or more of the following reasons:

(i) Birth of a child or placement of a child for adoption or foster care;

(ii) To bond with a child (leave must be taken within one year of the child's birth or placement);

(iii) To care for the employee's spouse, child, or parent, who has a qualifying serious health condition;

(iv) For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job.

(v) For qualifying exigencies related to the foreign deployment of a covered service member who is the employee's spouse, child, or parent. (Amended: 10/20/2020)

(b) Subject to the requirements of the County's policy and regulations and applicable federal law and regulations, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member of the Armed Forces, including a member of the National Guard or Reserves, is entitled to a combined total of twenty-six (26) work weeks of unpaid leave during a single twelve (12) month period (as defined in Paragraph 4 (g)), in order to care for a covered service member who has sustained a "serious injury or illness." FMLA leave already taken for other FMLA circumstances are deducted from the total of twenty-six (26) weeks available.

4. Definitions.

(a) "Covered active duty" means:

(i) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and

(ii) in the case of a member of a reserve component of the Armed Forces, duty during 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 101(a)(13)(B) of Title 10.

(b) "Covered service member" means:

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

(ii) 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 five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

(c) "Family member," in reference to FML provided for the qualifying event described in Paragraph 3 (a) (iii) means the employee's spouse, son, daughter, or parent. These are terms with specific meanings:

(i) "Spouse" is a gender-neutral term and means the person, whether of the same or opposite gender, to whom the employee is legally married, but does not include unmarried domestic partners or civil unions. (Amended: 4/5/2016)

(ii) "Son" or "Daughter" means a biological, adopted, foster child, stepchild,
a
legal ward, or a child of a person standing *in loco parentis*, who is under 18 years old, or is 18 or older and incapable of self-care because of a mental or physical disability.

(a) “*In loco parentis*” refers to a relationship in which an employee puts him/herself in the situation of a parent by assuming and discharging the obligations of a parent to a child. This relationship exists when an employee intends to take on the role of a parent to a child who is under 18 or is 18 years of age or older and incapable of self-care because of a mental or physical disability, even though the employee does not have a biological or legal relationship, and the employee exercises day-to-day responsibilities to care for the child or financially supports the child.. The specific facts of each situation will determine whether an employee stands *in loco parentis* to a child. The County is entitled to request that an employee provide reasonable documentation or a statement claiming the family relationship, and the employee should provide sufficient information to make the County aware of and to document the relationship. (Amended 4/5/2016)

(iii) “Parent” means a biological, adoptive, step or foster parent or someone who stood in place of a parent to an employee when the employee was a son or daughter. It does not include parents-in-law.

(d) “Next of Kin” means the service member’s nearest blood relative, other than the service member’s spouse, parent, son or daughter, in the priority established by federal law, unless the service member has specifically designated in writing another blood relative as his/her nearest blood relative.

(e) “Outpatient status” with respect to a covered service member means the status of a member of the Armed Forces assigned to:

(i) a military medical treatment facility as an outpatient; or

(ii) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

(f) “ 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 a service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of the service member’s office, grade, rank or rating.

(g) “Single 12-month period” for leave to care for a covered service member with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the twelve (12) month period established by the County for other types of FMLA leave.

(h) “ Serious Health Condition,” in reference to FML provided for the qualifying events described in Paragraph 3 (a) (iii) and (iv) means an illness, injury, impairment, or physical or mental condition that involves either:

(i) inpatient care (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility including any period of incapacity (*i.e.*, inability to work or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or

(ii) continuing treatment by a health care provider that results in a period of incapacity lasting more than three (3) consecutive, full calendar days and any subsequent treatment or period of incapacity relating to the same condition that also includes:

(A) Treatment two (2) or more times by or under the supervision of a health care provider, *i.e.*, in-person visits, the first within 7 days and both 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) One treatment by a health care provider, *i.e.*, in-person visit, the first within 7 days of the first day of incapacity, with a continuing regimen of treatment under the supervision of the health care provider (*i.e.*, prescription medication, physical therapy). 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 do not constitute a continuing regimen of treatment.

(iii) “serious health condition” does cover conditions such as asthma and diabetes even if the episode of incapacity does not last more than three (3) days; or

(iv) any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or

(v) any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; or

(vi) a period of incapacity that is permanent or long term due to a condition for which treatment may not be effective. Only supervision by health care provider is required rather than active treatment; or

(vii) Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

(i) “Son” or “Daughter” in reference to FML provided for the qualifying event described in paragraph 3 (a) (v) [“qualifying exigencies”] has a different meaning than in the context of a “family member” for “serious health condition” and means:

(i) The employee's biological, adopted, foster child, stepchild, legal ward, or a child for whom the employee stood *in loco parentis* who is on covered active duty and who is of any age. This definition for FML for qualifying exigency does not alter the definition of son or daughter for the purpose of leave for other FML-qualifying events.

(ii) The definitions of "spouse" and "parent" in reference to FML provided for the qualifying events described in paragraph 3 (a) (v) ["qualifying exigencies"] have the same meanings as in the context of a "family member" for "serious health condition."

5. Specific Limitations, Requirements and/or Explanations Concerning Qualifying Events Under Family and Medical Leave.

(a) FML applicable to the birth and to bond with a child of an employee begins on the date of birth and must conclude within twelve months of the birth. No intermittent or reduced schedule leave is allowed for the birth or to bond with a child of the employee. (Amended: 10/20/2020)

(b) FML applicable to the placement of a child with an employee for adoption or foster care and to bond with the child must conclude within twelve months of the date of placement or adoption. Foster care requires there be State action removing the child from the custody of the parents and placing the child with the employee. No intermittent or reduced schedule leave is allowed for the placement of a child or to bond with the child with an employee for adoption or foster care.

(c) Paragraph 14 addresses the circumstance where both spouses work for the County, and each spouse is eligible and desires to take FMLA leave. The FMLA limits the combined amount of leave which may be taken for some, but not all FMLA-qualifying leave reasons.

(d) The employee's own "serious health condition" must make the employee unable to work at all or unable to perform the essential functions of the employee's job. The certification from a health care provider as required in Paragraph 10 (a) must certify that the employee has a "serious health condition" (as defined in Paragraph 4 (h)) AND must certify that the employee is either unable to work at all or is unable to perform the essential functions of the employee's position.

(e) While FML granted to the military care giver as described in Paragraph 3 (b) is for a "single 12 month period," the FML granted for "qualifying exigencies" under Paragraph 3 (a) (v) is for up to a total of 12 work weeks during the normal twelve (12) month period established by the County.

(f) The "Qualifying Exigencies" that entitle an eligible employee to FML under Paragraph 3 (a) (v) include:

(i) Issues arising from short notice deployment (deployment on seven or less days of notice) for a period of seven days from the date of notification;

(ii) Attending military events and related activities that are related to the active duty or call to active duty status of a covered military member;

(iii) Certain childcare and related activities arising from the active duty or call to activity duty ;

(iv) Making or updating financial and legal arrangements to address a covered military member's absence;

(v) Attending counseling provided by someone other than a health care provider for the employee, the covered military member or child, the need for which arises from the active duty or call to active duty status of the covered military member.

(vi) Taking up to fifteen (15) days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during the period of deployment; eligible employees may take up to fifteen (15) days of leave for each instance of rest and recuperation.

(vii) Attending to certain post-deployment activities including attending various official programs or ceremonies sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member.

(viii) To care for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty. Care may include arranging for alternative care, providing care on an immediate-need basis, admitting or transferring the parent to a care facility, or attending meetings with staff at a care facility, meetings with hospice or social service providers. The employee taking qualifying exigency leave for parental care doesn't need to be related to the military member's parent; however, the military member must be the spouse, parent, son or daughter of the employee taking the leave.

(ix) Any other event that the employee and County agree is a qualifying exigency.

(g) FML may be taken intermittently for a qualifying exigency arising out of active duty status or call to active duty of a covered military member.

(h) Eligible employees who are entitled to up to a total of twenty-six (26) work weeks of unpaid leave during a single twelve (12) month period in order to provide care to a covered service member are limited to a combined total of 26 workweeks of leave for any FML-

qualifying event during the single 12-month period. Only 12 of the 26 work weeks allowed may be for FML-qualifying events other than to care for a covered service member.

Leave that qualifies as both leave to care for a covered service member with a serious injury or illness and leave to care for a qualifying family member with a serious health condition must be designated by the County as leave to care for a covered service member in the first instance. The designation notice must be in writing and generally must be given within five (5) business days of the determination. The County must also notify the employee of the number of hours, days, or weeks that will be counted against the employee's FML entitlement.

(i) When FML is needed to care for a covered service member with a serious injury or illness, leave may be taken intermittently whenever medically necessary. The employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the County's operations.

6. Compensation and Benefits While on Family and Medical Leave.

(a) Group Health Insurance Coverage.

(i) The County is required to maintain group health insurance coverage for an employee on FML whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. If applicable, arrangements shall be made for the employee to pay his/her share of health insurance premiums while on leave.

(ii) Any increase in premiums or deductibles or changes in terms and conditions of insurance that apply to active employees shall also apply to employees on FMLA leave. Any employee who fails to pay his/her required share of a premium may be dropped from coverage under the group health insurance plan, after having allowed the employee a thirty (30) day grace period for making payment. The County shall provide the employee a written notice that the payment has not been received and that coverage will be dropped at least fifteen (15) calendar days after the date of the written notice; in the event a longer period for notice or cancellation is required by an act or regulations other than FMLA, such longer period shall apply. The written notice shall be made either in person or by certified mail, postage prepaid, or by express delivery with handling prepaid. Notice shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the day of mailing if mailed to the party to whom notice is to be given, by certified mail, postage prepaid, or by express delivery with handling prepaid, addressed to the address last provided by the employee. (Amended: 4/5/2016)

(b) Other Benefits.

(i) Use of Family and Medical Leave does not result in the loss of any employment benefit that accrued prior to the start of an employee's leave. Except for those employees who are utilizing donated sick leave or who are receiving worker's compensation benefits for lost wages, an employee who uses paid sick leave, or vacation leave, or at the employee's option, requests to use any accrued compensatory time, concurrently with all or part of the Family and Medical Leave, continues to be granted sick leave and to earn and accrue vacation leave during the use of such paid leave or time off. During such time as Family and Medical Leave is unpaid leave, employees do not continue to be granted sick leave or to earn and accrue vacation leave. No employee is entitled to paid funeral leave or paid civic duty leave while on Family and Medical Leave. When a holiday falls during a week in which an employee is taking the full week as FMLA leave, the entire week, including the holiday, is counted as FMLA leave; however, when a holiday falls during a week when the employee is taking less than the full week as FMLA leave, the holiday is not counted as FMLA leave, unless the employee was scheduled and expected to work on the holiday and used FMLA leave for that day. If the holiday falls during such time as the employee is using paid leave or time off, then the employee receives holiday pay for the holiday and the day is not charged against the employee's sick leave, vacation leave, or accrued compensatory time off (if the employee has requested to use accrued compensatory time off). If, however, the holiday falls during such time as the FMLA leave is unpaid leave, then there is no holiday pay and no additional compensation for holidays during such period.

Any increase, reduction, or change in such benefits applicable to active employees shall also apply to employees on FMLA leave. (Amended 4/5/2016; 10/20/2020; 9/19/2023)

(ii) With regard to life insurance, disability insurance or other benefit plans, the County will follow its established practice as in other instances of unpaid leave. If there is no established policy, then these will be provided on the same basis as before the FML was taken and on the same terms and conditions as if the employee had continued to work. If applicable, arrangements shall be made for the employee to pay his/her share of premiums while on leave. Any increase in premiums or deductibles or changes in the terms and conditions of such insurance or other benefit plans that apply to active employees shall also apply to employees on FMLA leave. Any employee who fails to pay his/her required share of premium may be dropped from coverage under the insurance or benefits plan after having allowed the employee a thirty (30) day grace period for making payment. The County shall provide the employee a written notice that the payment has not been received and that coverage will be dropped at least fifteen (15) calendar days after the date of the written notice; in the event a longer period for notice or cancellation is required by an act or regulations other than FMLA, such longer period shall apply. The written notice shall be made either in person or by certified mail, postage prepaid, or by express delivery with handling prepaid. Notice shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the day of mailing if mailed to the party to whom notice is to be given, by certified mail, postage prepaid, or by express delivery with handling prepaid, addressed to the address last provided by the employee. (Amended: 4/5/2016)

(iii) For purposes of vesting and eligibility to participate in retirement plans, FML is treated as continued service.

- (c) Accrued Paid Leave Runs Concurrently With FML; Employee's Option to Use Accrued Compensatory Time.

Family and Medical Leave is unpaid leave except for those employees who are receiving worker's compensation benefits for lost wages. For all eligible employees other than those who are receiving worker's compensation benefits for lost wages, the eligible employee is required to use paid sick leave, vacation leave, accrued compensatory time, and/or donated sick leave concurrently with and exhaust such paid leave or time off for all or part of the twelve-week, or twenty-six week, leave period and to comply with the County's normal paid leave policies. If the employee exhausts his/her paid sick leave, vacation leave, accrued compensatory time, and any donated sick leave, any remaining FMLA leave shall be unpaid. The employee may, at the employee's option, request to use any accrued compensatory time concurrently with the FML leave, in an amount sufficient to equal the employee's usual monthly wages. The employee's use of accrued compensatory time is considered paid leave or time off for purposes of paragraphs 6 (b) (i) and 15(b). (Amended: 4/5/2016; 10/20/2020; 9/19/2023)

- (d) Additional Compensation.

An employee, generally, cannot collect unemployment or other governmental compensation while on FML. Employees who are receiving Wyoming Worker's Compensation benefits for lost wages may not use, concurrently with FML, paid sick leave. An employee may, at the employee's option, use accumulated vacation leave and accrued compensation time in an amount sufficient to equal the differential between the lost wage benefit from worker's compensation and the employee's usual monthly wage. The employee may exercise that option so long as the use of that accumulated vacation leave or accrued compensation time will not adversely affect or reduce the employee's monthly benefit for lost wages paid by worker's compensation. (Amended 4/5/2016; 10/20/2020)

7. Reinstatement/Return to Employment at the End of Family Medical Leave. Upon return from FML, an employee must be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment so long as the employee can continue to perform all the essential functions of the position. An employee's use of FML cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FML nor can it be counted against the employee under a "no fault" attendance policy. An employee has no greater right to restoration or to other benefits and conditions of employment than if the employee had not taken the FML.

8. Proper Notice by Employee to County.

(a) In any case in which the reason for FML is due to the necessity of the employee to care for a family member or because of the serious health condition of the employee, the employee shall:

(i) make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the County, subject to the approval of the health care provider; and

(ii) provide the County with timely oral or written notice, such notice to be not less than thirty (30) calendar days before the date FML is to begin, when the need to take leave is foreseeable and such notice is practicable. If the leave is foreseeable less than 30 calendar days in advance, the employee must provide notice as soon as practicable, generally either the same day the employee learns of the need for the leave or the next business day. When the need for leave is not foreseeable, the employee must provide notice to the County as soon as practicable under the facts and circumstances of the particular case. Absent usual circumstances, employees must comply with the employer's usual and customary notice and procedural requirements for requesting leave and provide notice of the employee's intention to take leave under such provisions.

(iii) If the employee does not give at least 30 calendar days' notice, the County may ask for an explanation, and the employee must respond in a timely manner.

(iv) If an employee fails to give proper notice, the County may delay or deny leave.

(v) Employees do not have to share a medical diagnosis, but must provide enough information for the County to determine if the leave may qualify for Family and Medical Leave Act protection, and must provide the anticipated timing and duration of the leave. Sufficient information may include that the employee is or will be unable to perform job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment by a health care provider is necessary, or circumstances supporting the need for military family leave. Employees must also inform the County if the requested leave is for a reason for which Family and Medical Leave was previously taken or certified.

(vi) When an employee seeks leave for a FML-qualifying event for the first time, the employee need not expressly assert FML rights or even mention FML. However, when the employee seeks leave for a FML-qualifying event for which the County has previously provided the employee FMLA leave, then employee must specifically make reference either to the qualifying event for leave or the need for FMLA leave.

(b) In any case in which the employee is seeking to use FML to provide care to a covered service member for a serious injury or illness, the employee must provide 30 calendar days advance notice of the need to take FMLA leave for planned medical treatment. If the leave is foreseeable less than 30 calendar days in advance, the employee must provide notice as soon as practicable, generally either the same day the employee learns of the need for the leave or the next business day. When the need for leave is not foreseeable, the employee must provide notice to the County as soon as practicable under the facts and circumstances of the particular case.

(c) In any case in which the employee is seeking leave for a "qualifying exigency," the employee must provide notice of the need for foreseeable leave as soon as practicable. If the need for the leave is not foreseeable, the employee must give notice as soon as practicable

under the facts and circumstances of the particular case, generally within the time prescribed by the County's usual and customary notice and procedural requirements for requesting leave.

An employee seeking leave either to provide care to a covered service member or for a "qualifying exigency" does not need to specifically assert his or her rights under FMLA or even mention the FMLA when providing notice. The employee must provide "sufficient information" to make the County aware of the need for FML and the anticipated timing and duration of the leave. Depending on the situation, such information may include, as applicable:

(i) that the requested leave is for a particular qualifying exigency related to the active duty or call to active duty status of a covered military member and the anticipated duration of the leave;

(ii) that the leave is for a qualifying person who is a covered service member with a serious injury or illness and the anticipated duration of the leave.

9. County's Eligibility Notice and Notice of Rights and Responsibilities.

(a) When an employee requests FMLA leave, or the County acquires knowledge that leave may be for a FML purpose, the County must notify the employee of his/her eligibility to take FML and inform the employee of his/her rights and responsibilities.

(b) If the employee is eligible for FML, the County must notify the employee that the leave is designated and will be counted as FMLA leave. If the County determines the employee not to be eligible, the notification must include the reason the employee is determined not to be eligible.

(c) Such eligibility notice may be oral or written and should, generally, be given within five (5) business days of the request for FMLA leave, unless there are extenuating circumstances. Subsequent eligibility notice in the same twelve (12) month period may be required when the employee's eligibility status changes.

(d) The County must also give notice to employees of their rights and responsibilities under FML, including specific written information on what is required of the employee.

(e) The County may use a single form (including U.S. Department of Labor forms) for both the eligibility notice and the rights and responsibilities notice.

10. Certification for Leave.

(a) Family and Medical Leave for Qualifying Serious Health Condition of Family Member or of Employee.

(i) The County may require that a request for leave to care for a family member with a qualifying serious health condition or because of the employee's own qualifying

serious health condition 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, as appropriate. (Amended: 10/20/2020)

(ii) The County must request the certification within five (5) business days after the employee requests leave or the County acquires knowledge that FML may be for a FML purpose. The County must give the employee at least 15 calendar days to provide the certification. This may be done through the rights and responsibilities notice.

(iii) It is the employee's responsibility to provide the County with a complete and sufficient certification. The employee shall provide a copy of such certification to Human Resources office as well as the employee's department head. The employee shall be responsible for the cost of such certification or re-certification.

(iv) If the certification is incomplete or insufficient, the County must notify the employee in writing of what additional information is needed, and must give 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 non-responsive. The County may deny FML if the deficiencies in the certification are not corrected, or there is no resubmitted certification.

(v) The County 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 Human Resources office, or such department head as designated by the County Commissioners, (but not the employee's direct supervisor) may contact the employee's health care provider.

(vi) Certification provided under this Paragraph 10 shall be sufficient if it states:

(A) the date on which the serious health condition commenced;
and

(B) the probable duration of the condition; and

(C) the appropriate medical facts within the knowledge of the health care provider regarding the condition; and

(D) 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

(E) in the case of the employee's own serious health condition, a statement that the employee is unable to work at all or is unable to perform the essential functions of the position of the employee; and

(F) 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.

(vii) A second opinion may be required in any case in which the County has reason to doubt the validity of the certification provided by the employee for leave for medical care or for medical reasons. The County may require, at the expense of the County, that the eligible employee obtain the opinion of a second health care provider designated or approved by the County concerning any information certified under this paragraph for such medical leave.

(viii) In any case in which the second opinion described above differs from the opinion in the original certification provided under this section, the County may require, at the expense of the County, that the employee obtain the opinion of a third health care provider designated or approved jointly by the County and the employee. The opinion of the third health care provider shall be considered to be final and shall be binding on the County and the employee.

(ix) The County can ask for re-certification once every 30 calendar days in connection with the employee's absence. If the original certification indicated that the condition will last more than 30 calendar days, and the leave involves the absence of the employee, the County will not ask for re-certification during the period specified in that original certification. The County may ask for re-certification on a more frequent basis if the employee requests an extension of leave, the circumstances described by the previous certification have changed significantly (e.g., the duration of the illness, the nature of the illness, complications), or the County receives information that casts doubt on the continuing validity of the certification. The County may also ask the health care provider on the medical certification form whether the pattern of absence is consistent with the employee's serious health condition, and may include the employee's absences along with the medical certification form for the health care provider. (Amended: 4/5/2016)

(b) Family and Medical Leave for Qualified Exigency.

(i) The County may require that leave for a qualifying exigency be supported by
a copy of the covered military member's active duty orders, a copy of the military member's rest and recuperation leave orders or other documentation issued by the military setting forth the dates of the military member's leave; a statement or description signed by the employee of appropriate facts regarding the qualifying exigency; approximate date on which the qualifying exigency commenced or will commence; information concerning the beginning and end dates for the employee's absence in the event of leave for a single, continuous period of time, or, if leave

is requested on an intermittent or reduced schedule basis, an estimate of the frequency and duration of the qualifying exigency; if the qualifying exigency involves meeting with a third party, appropriate contact information for the individual or entity with whom the employee is meeting and a brief description of the purpose of the meeting, and such other information as allowed by rules or regulations. The County may contact individuals or entities with whom the employee is meeting to verify a meeting or appointment schedule and the nature of the meeting and contact an appropriate unit of the Department of Defense to request verification of covered active duty. The employee's permission is not required in order to make those contacts. (Amended: 4/5/2016; 10/20/2020)

(c) Family Medical Leave for Care of Covered Service Member.

(i) The County may require that leave to care for a covered service member with a serious injury or illness be supported by a certification completed by an authorized health care provider or by a copy of an Invitational Travel Order (ITP) or Invitational Travel Authorization (ITA) issued to any member of the covered service member's family, as well as any other information which is allowed under the regulations concerning certification for military caregiver leave.

(ii) Second and third opinions and re-certification are not permitted for certification of a covered service member's serious injury or illness of a qualifying exigency except when the certification is provided by non-military affiliated health care providers. The County may use a health care provider, a human resource profession, a leave administrator, or a management official, but not the employee's direct supervisor, to authenticate or clarify a medical certification of a serious injury or illness, or an ITO Or ITA. In addition, the County may contact the individual or entity named in the certification of leave for a qualifying exigency for purposes of verifying the existence and nature of the meeting.

11. Designation of Leave as Family Medical Leave. Within five (5) business days of when

the County has enough information as to whether leave is for a FML-qualifying event (*e.g.*, after getting a sufficient medical certification or other information) the County will give written notification to the employee that the leave is designated as FML. The notice must state whether the employee has FML time available and whether the leave does or does not qualify as FML leave. If the employee is absent for a FML-qualifying event and the County does not learn of the event until the employee's return, the employee must give notice within two (2) days of the return and the County will give notice of any FML designation within two (2) days thereafter. The County may also provisionally designate leave as FML-qualifying leave while awaiting receipt of medical certification or a second or third medical opinion.

12. Intermittent or Reduced Schedule Leaves. Intermittent or reduced schedule leave may

be taken either to care for a qualified family member with a qualifying serious health condition or for the employee's own qualifying serious health condition or for military caregiver leave. Employees seeking intermittent or reduced schedule leave based on planned medical treatment

are required to produce medical certification outlining the dates on which treatment is expected and the duration of the treatment. Employees must also provide 30 calendar days' notice, or as much notice as is practicable, of their intentions concerning intermittent or reduced schedule leave.

13. Exempt Employees. Salaried executive, administrative and professional employees who meet the Fair Labor Standards Act criteria for exemption from minimum wage and overtime do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the salary basis requirements for FLSA's exemption extends only to an "eligible" employee's use of leave required by the FMLA.

14. Both Spouses Work for the County.

(a) Generally, FMLA entitles an eligible employee to take up to twelve (12) work weeks of FML in a twelve (12) month period for certain family and medical reasons and to take up to twenty-six (26) workweeks of FMLA leave in a single twelve (12) month period for military caregiver leave. When spouses work for the County, and each spouse is eligible to take FMLA leave, the FMLA limits the combined amount of leave they may take for some, but not all, FML-qualifying leave reasons.

(b) When both spouses work for the County, and each spouse is eligible and desires to take FMLA leave, the total leave for both spouses is limited to a combined total of twelve (12) workweeks in the twelve-month period when the FMLA leave is taken for the following FML-qualifying reasons: (i) the birth of a child or placement of a child for adoption or foster care; (ii) to bond with a child (leave must be taken within one year of the child's birth or placement); (iii) to care for the employee's child or parent (but not parent-in-law), who has a qualifying serious health condition.

(c) Eligible spouses who both work for the County are also limited to a combined total of twenty-six (26) workweeks of leave in a single 12-month period to care for a covered service member with a serious injury or illness (military caregiver leave) if each spouse is a parent, son or daughter, or next of kin of the service member. When spouses take military caregiver leave, as well other FMLA leave in the same leave year, each spouse is subject to the combined limitations for the reasons for leave listed in paragraph (b) above.

(d) The limitation on the amount of leave for spouses who both work for the County, does not apply to FML taken for the following FML-qualifying reasons: a) the care of a spouse, son or daughter with a qualifying serious health condition; b) a qualifying serious health condition that makes the employee unable to perform the essential functions of his or her job; and c) any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty. Eligible spouses who both work for the County are each entitled to up to twelve (12) workweeks of FMLA leave in the twelve-month period, without regard to the amount of leave their spouse uses for those same FML-qualifying leave reasons.

15. Failure to Return from Leave.

(a) The County may recover its share of the health insurance and/or other non-health benefits premiums that the County paid for maintaining coverage for the employee under the County's group health insurance plan and other non-health benefits during any period of leave under this policy if the employee fails to return from leave after the period of leave to which the employee is entitled has expired, and, the employee fails to return to work for a reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave either to care for an individual or on account of the employee's own serious health condition, or other circumstances beyond the control of the employee.

(b) An employee who returns to work for at least thirty (30) calendar days (inclusive of weekends) is considered to have returned to work for purposes of FMLA. An employee who transfers directly from taking FMLA leave to retirement, or who retires during the first thirty (30) calendar days (inclusive of weekends) after the employee returns to work, is deemed to have returned to work. If the employee chooses not to return to work for at least thirty (30) calendar days (inclusive of weekends) from Family and Medical Leave, the County may be entitled to recover from the employee the contributions it paid to maintain such insurance and non-health benefit premiums during the period when the FMLA leave was unpaid. Because the County requires the employee to concurrently use and exhaust paid leave or time off for all or part of the FMLA leave, and allows, at the employee's option and request, to use accrued compensatory time, the County cannot recover its share of the health insurance or other non-health benefit premiums for any period of FMLA leave that was covered by paid leave or time off. Because FMLA leave under a disability benefit plan or worker's compensation is not "unpaid leave," the County cannot recover its share of the health insurance premiums or other non-health benefit premiums for any period the employee is receiving worker's compensation benefits for lost wages. (Amended: 10/20/2020; 9/19/2023)

16. Non-Discrimination or Interference. The County does not interfere with, restrain or deny

the exercise of any right provided by the FMLA nor does it discharge or discriminate against any individual for opposing any practice, or becoming involved in any proceeding related to the FMLA.

17. Posting/Notice to Employees. The County will post a notice approved by the U.S. Secretary of Labor explaining rights and responsibilities under the FMLA in each of the County buildings and bulletin board located outside the Human Resources Office. Additionally, the County will include a general notice explaining the employee rights and responsibilities under FML in the *Carbon County Personnel and Benefits Manual (2020)* and will distribute a copy of the notice to each new employee upon hiring in the form of the FMLA poster. (Amended: 10/20/2020)

18. Reference to Code of Federal Regulations for Interpretation. To interpret and apply

the provisions of this leave, reference will be made to the Code of Federal Regulations; Family Medical and Leave Act of 1993, as amended, as well as other appropriate regulations, and administrative interpretations.

Your Employee Rights Under the Family and Medical Leave Act

What is FMLA leave?

The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees with **job-protected leave** for qualifying family and medical reasons. The U.S. Department of Labor's Wage and Hour Division (WHD) enforces the FMLA for most employees.

Eligible employees can take **up to 12 workweeks** of FMLA leave in a 12-month period for:

- The birth, adoption or foster placement of a child with you,
- Your serious mental or physical health condition that makes you unable to work,
- To care for your spouse, child or parent with a serious mental or physical health condition, and
- Certain qualifying reasons related to the foreign deployment of your spouse, child or parent who is a military servicemember.

An eligible employee who is the spouse, child, parent or next of kin of a covered servicemember with a serious injury or illness **may take up to 26 workweeks** of FMLA leave in a single 12-month period to care for the servicemember.

You have the right to use FMLA leave in **one block of time**. When it is medically necessary or otherwise permitted, you may take FMLA leave **intermittently in separate blocks of time, or on a reduced schedule** by working less hours each day or week. Read Fact Sheet #28M(c) for more information.

FMLA leave is **not paid leave**, but you may choose, or be required by your employer, to use any employer-provided paid leave if your employer's paid leave policy covers the reason for which you need FMLA leave.

Am I eligible to take FMLA leave?

You are an **eligible employee** if **all** of the following apply:

- You work for a covered employer,
- You have worked for your employer at least 12 months,
- You have at least 1,250 hours of service for your employer during the 12 months before your leave, and
- Your employer has at least 50 employees within 75 miles of your work location.

Airline flight crew employees have different "hours of service" requirements.

You work for a **covered employer** if **one** of the following applies:

- You work for a private employer that had at least 50 employees during at least 20 workweeks in the current or previous calendar year,
- You work for an elementary or public or private secondary school, or
- You work for a public agency, such as a local, state or federal government agency. Most federal employees are covered by Title II of the FMLA, administered by the Office of Personnel Management.

How do I request FMLA leave?

Generally, **to request FMLA leave you must:**

- Follow your employer's normal policies for requesting leave,
- Give notice at least 30 days before your need for FMLA leave, or
- If advance notice is not possible, give notice as soon as possible.

You **do not have to share a medical diagnosis** but must provide enough information to your employer so they can determine whether the leave qualifies for FMLA protection. You **must also inform your employer if FMLA leave was previously taken** or approved for the same reason when requesting additional leave.

Your **employer may request certification** from a health care provider to verify medical leave and may request certification of a qualifying exigency.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

State employees may be subject to certain limitations in pursuit of direct lawsuits regarding leave for their own serious health conditions. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress.

What does my employer need to do?

If you are eligible for FMLA leave, your **employer must:**

- Allow you to take job-protected time off work for a qualifying reason,
- Continue your group health plan coverage while you are on leave on the same basis as if you had not taken leave, and
- Allow you to return to the same job, or a virtually identical job with the same pay, benefits and other working conditions, including shift and location, at the end of your leave.

Your **employer cannot interfere with your FMLA rights** or threaten or punish you for exercising your rights under the law. For example, your employer cannot retaliate against you for requesting FMLA leave or cooperating with a WHD investigation.

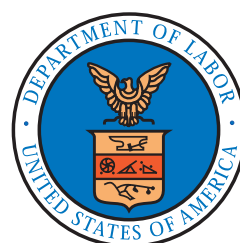
After becoming aware that your need for leave is for a reason that may qualify under the FMLA, your **employer must confirm whether you are eligible** or not eligible for FMLA leave. If your employer determines that you are eligible, your **employer must notify you in writing:**

- About your FMLA rights and responsibilities, and
- How much of your requested leave, if any, will be FMLA-protected leave.

Where can I find more information?

Call **1-866-487-9243** or visit **dol.gov/fmla** to learn more.

If you believe your rights under the FMLA have been violated, you may file a complaint with WHD or file a private lawsuit against your employer in court. **Scan the QR code to learn about our WHD complaint process.**



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

SCAN ME

