

CHAPTER 3
Human Resources

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ARTICLE I
General Provisions

Sec. 3-1-10. Introduction.

This Chapter contains the Board of County Commissioners' personnel policies, plans and procedures as enacted by the Board of County Commissioners and as required by Section 4-2(B) of the Home Rule Charter. It is designed to be used by department heads, supervisory and staff personnel, and employees in the day-to-day administration of the County personnel program. In cases that are unique to a specific department or office, departmental supplemental personnel policies will be issued. These supplements must be approved by the Board of County Commissioners. (Weld County Code Ordinance 2003-4)

Sec. 3-1-20. Management rights.

A. The contents of this Chapter and all departmental supplemental personnel policy forms are presented as a matter of information only. The Board of County Commissioners reserves the right to modify, revoke, suspend, terminate, interpret or change any or all of these plans, policies or procedures, in whole or in part, at any time. The language used in this Chapter and in all departmental supplemental personnel policy forms is not intended to create, nor is it to be construed to constitute, a contract between the County and any one (1) or all of its employees. All County employees have been in the past and are currently considered to be employed *at will*.

B. All plans, policies, and procedures contained in the Chapter and in all departmental supplemental personnel policy forms will be administered in accordance with federal and state laws and with the Home Rule Charter.

C. The contents of this Chapter supersede all previous versions of the *Employee Personnel Policy Handbook*, all personnel plans, policies, procedures, manuals, resolutions, and/or personnel operations manuals, except for the procedures set forth in any departmental supplemental personnel policies that have been received by the Department of Human Resources and approved by the Board of County Commissioners. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-1-30. Exempt positions.

A. The following positions are exempt from the provisions of these policies and the County Personnel System, except that the Board of County Commissioners shall establish, for these exempted positions, the compensation and benefits.

1. The appointed chief deputy of the Clerk and Recorder and Assessor.
2. All hourly employees as described in Section 3-2-90.
3. All elected officials as defined by the Home Rule Charter.
4. Reserve deputies and Sheriff's posse.

5. The District Attorney for the Nineteenth Judicial District and any and all assistants, deputies and other employees of said District Attorney.

6. The County Attorney and all Assistant County Attorneys.

B. The County is involved in a number of jobs programs. Participants in the below-listed programs are not regular employees of the County and are not covered by the policies of this Chapter.

1. Work study. Contracts with area schools such as Aims Community College and the University of Northern Colorado.

2. Contracts for specialized services. The County enters into special contracts for some services in lieu of hiring an employee.

3. Student intern programs. Area schools occasionally place student interns in County Departments for internships.
4. Employment services of the County. The Department of Human Services places people in various programs.
5. Useful public service. This program is limited to individuals required to perform public service in lieu of some other penalty.
6. Any other job program which falls into this category and has been approved by the Board of County Commissioners. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-1-40. Personnel records.

A. With the exception of the records from the Department of Social Services, the Department of Human Resources is the custodian of all official personnel/payroll records for current and past employees of the County. The employee's file in the Department of Human Resources will be the official file for all employment inquiries. The Department of Social Services maintains performance records for current employees in that Department. State law requires that the files be restricted from access by anyone other than an individual who has a direct interest; that is, the employee or the employee's supervisor. Each employee has access to his or her own records.

B. The employee may authorize a third party access to his or her record with written authorization signed by the employee which specifies exactly what items can be accessed or released. Without additional signed authorization, the County will only confirm employment and length of employment with the County. Inquiries that are authorized by employees or former employees from prospective employers will be answered based on the final performance evaluation of the employee. Information will not be provided without the employee's permission. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2005-14; Weld County Code Ordinance 2007-4)

Sec. 3-1-50. Service awards.

A. The County appreciates the extended service of its employees and provides service recognition awards for employees who have completed ten (10) and twenty (20) years of continuous affiliation as an active full-time employee. The ten-year award shall be an emerald pin and the twenty-year award shall be a ruby pin. The service awards shall be presented annually at an awards ceremony scheduled by the Board of County Commissioners.

B. Employees formally retiring from County service who have served continuously as an active employee for eight (8) years or more may be awarded a retirement pin at the time of their retirement by the Board of County Commissioners upon the recommendation of the employee's department head or elected official.

C. Receipt of the above awards is not an employee right or guaranteed benefit. The award of the retirement or service pins can be terminated by the Board of County Commissioners at any time. (Weld County Code Ordinance 2003-4)

ARTICLE II

Employment Information

Sec. 3-2-10. Equal Employment Opportunity (EEO).

A. The County strives to attain complete compliance with all provisions of equal employment opportunity laws. Recruiting, selection and advancement of employees will be on the basis of their relative ability, knowledge, skills and other relevant factors.

B. It is the intent of the County to:

1. Recruit, hire, train and promote persons in all job titles without regard to race, religion, color, sex, age, national origin, disability, veteran status or any other status or condition protected by applicable state law, except where a bona fide occupational qualification applies.

2. Administer all personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, County-sponsored training, education and tuition assistance without regard to race, religion, color, sex, age, national origin, disability, veteran status or any other status or condition protected by applicable state law, except where a bona fide occupational qualification applies.

3. An employee should contact the Director of Human Resources if the employee has a suggestion, problem or complaint with regard to EEO.

4. Any applicant who applies for a job with the County and feels there may have been illegal discrimination on the basis of race, color, religion, sex, national origin, belief, age or disability during the application/job selection process may appeal this alleged discrimination in writing to the Director of Finance and Administration. The Director of Finance and Administration will then investigate the alleged discrimination. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-2-20. Political activities.

In accordance with Section 4-2(B) of the Home Rule Charter, no employee shall, during working hours, engage in any political activity. This includes requiring an applicant or employee to divulge political beliefs or to make contributions to political parties or groups. (Weld County Code Ordinance 2003-4)

Sec. 3-2-30. Hours of operation.

The Board of County Commissioners hereby reserves to itself the authority to determine the hours of the day during which County offices will be open. (Weld County Code Ordinance 2003-4)

Sec. 3-2-40. Promotions/transfers.

A. Promotions and transfers may be given to employees for the purpose of better utilizing the abilities of County employees. The County is interested in employee development and encourages all employees to prepare for advancement to higher positions.

B. Promotions and transfers from within the County are made when appropriate. County employees are encouraged to apply for vacancies for which they are qualified by completing a Transfer Request Form and a Weld County Employment Application. County employees who meet the position criteria may be selected for interview for the position. All requests for transfer should be channeled through the employee's supervisor to the department head or elected official and then to the Department of Human Resources. Department heads and elected officials have the discretion to promote individuals within their departments based on performance and/or qualifications without advertising a position or without conducting interviews. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-2-50. Vacancies.

A. Because there are times when it is necessary to fill the position as quickly as possible, the County may find it expedient to advertise concurrently in the outside market at the same time the position is advertised internally.

B. Applications are screened by the Department of Human Resources by comparing the applicant's qualifications to the job requirements. In specialized professional fields, departments may assist in the screening process. The Department of Human Resources will certify a list of names of the applicants that meet the minimum qualifications to the departments and refer the most qualified applicants to the department head or elected official for interview and final selection. Department heads or elected officials may not interview applicants unless they have been certified by the Department of Human Resources. Department heads or elected officials are the only authorized appointing officials for the County. This authority cannot be delegated.

C. In all instances of transfer, the employee will be subject to a promotional review period of six (6) months. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-2-60. Re-employment.

At the discretion of the department or elected official, a regular employee who resigned within one (1) year and was in good standing at the time of the resignation may be rehired. Upon re-employment, the employee shall be subject to all conditions of employment, including the twelve-month initial review period applicable to new employees. If the date of termination is less than thirty-one (31) days, the employee will be reinstated with no change in hire date. (Weld County Code Ordinance 2003-4)

Sec. 3-2-70. Outside employment.

An employee may engage in outside employment if there is no interference with assigned working hours and duties, if there are no real or apparent conflicts of interest with assigned responsibilities and if approved by the department head or elected official. Exceptions are when it would be prohibited by the Home Rule Charter or by resolution of the Board of County Commissioners. For the purposes of this Section, and by way of example, an "apparent conflict of interest with assigned responsibilities" would occur if an employee testifies in a professional capacity on behalf of either an applicant or opponent in a land use hearing before the Board of County Commissioners. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2008-11)

Sec. 3-2-80. Employment of relatives.

A. In accordance with Section 4-2 of the Home Rule Charter, an appointing or employing authority may not employ or request the employment of any person who is related to him or her as spouse, parent, child, brother, sister or in-law.

B. Relatives may not be in a position to supervise another relative. Relatives may not have access to confidential information, including payroll and personnel records. Relatives may not audit, verify, receive or be entrusted with County funds handled by another relative. For the purpose of this paragraph, *relative* is defined as spouse, child, stepchild, parent, stepparent, sibling, half-sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, spouse's grandparent, grandchild, step-grandchild, uncle, aunt, niece or nephew.

C. When two (2) employees in the same department or in a supervisory relationship get married if the listed guidelines apply, the one (1) with the shorter length of service will be required to transfer or resign within thirty (30) days unless the other does so voluntarily. (Weld County Code Ordinance 2003-4)

Sec. 3-2-90. Employee definitions.

A. *Initial review.* New employees are on initial review status for the first twelve (12) months of employment. The initial review status may be extended beyond the first twelve (12) months at the supervisor's discretion. Upon satisfactory completion of the review period, the employee will become a regular member of the County workforce. Employees on an initial review, whether for the twelve (12) months or extended initial review, may not file a grievance as described in Section 3-4-40 of this Chapter.

B. *Promotional/transfer review.* Employees promoted or transferred into a new position will be under a review status for six (6) months.

C. *Special review.* A department head or elected official may institute a special review period due to performance that was not up to department standards. The length of the special review period shall be at the discretion of the department head or elected official.

D. *Regular.* A regular employee is a full-time employee who is not on any review period. All personnel policies and procedures are applicable to regular employees, including grievance procedures. Regular employees may take advantage of benefits, including insurance, time off and retirement.

E. *Full-time.* A full-time employee is an employee who is regularly scheduled to work at least forty (40) hours per week. Depending on the situation, any of the above definitions may apply to full-time employees.

F. *Seasonal.* A seasonal employee is hourly, working forty (40) hours per week, but for only part of the year. There is no paid leave time, but seasonal, forty-hour-per-week employees may participate in the health insurance program. These employees have none of the grievance rights as described in this Chapter and may not participate in the Retirement Plan.

G. *Hourly.* An hourly employee is paid only for the hours worked. The employee is not paid for any leave time. Hourly employees have none of the grievance rights as described in this Chapter. The employee does not participate in the Retirement Plan or in any other County benefits.

H. *Part-time.* A part-time employee is regularly scheduled to work less than forty (40) hours per week. The part-time employee who consistently works at least twenty (20) hours per week may participate in the health, life and disability insurance programs. The employee has no grievance rights as described in this Chapter and may not participate in the Retirement Plan.

I. *Job share.* A job share employee works part-time and may participate in most County benefits except retirement. *Job share* normally means a full-time position with benefits has been split so it may be shared by two (2) people. Benefits are earned on a pro-rata basis based on standard hours worked. Job share prorated accrual rates are shown in Table 3.1.

Table 3.1
Job Share Status

<i>Normal Hours Worked Per Week</i>	<i>Job Share Status</i>
30 – 39	.75
20 – 29	.50

J. *Special funded.* An at-will position which is funded through grant or other special funding. Benefits will vary and be dependent on the funding that is provided. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2005-14)

Sec. 3-2-100. Working after retirement.

A. Employees retiring from County service must separate their regular employment from the County in order to draw benefits from the Weld County Retirement Plan. They do not have a right or expectation of continued employment with the County. Contract employment of a retired employee shall be at the discretion of the elected officer or department head. Such contract employment shall be "at will" and shall be governed by terms and conditions set forth in a contract signed by the Board of County Commissioners and the retired employee and pursuant to the requirements of this Section. An example of such a contract may be found in Appendix 3-C.

B. Employees retiring from County service under the Retirement Plan may, upon approval by the department head or elected official, work no more than a total of one thousand nine hundred seventy-six (1,976) hours annually, January to January. The retired employee may not receive disability insurance coverage, but may be eligible for health, dental and vision insurance either as a reemployed worker or through the retiree health plan, if he or she qualifies.

1. Hourly. An hourly retiree employee is paid only for the hours worked and is not eligible to receive benefits.

2. Part-time. A part-time retiree employee is regularly scheduled to work less than forty (40) hours per week. The part-time employee who consistently works at least twenty (20) hours per week may be eligible for certain benefits.

3. Job share retired with benefits. A job share retiree employee works part time and may be eligible for certain benefits, including step increases. The needs of the department and/or County will dictate if this status is possible. Benefits are earned on a pro-rata basis based on standard hours worked, shown in Table 3.2 and Table 3.3.

*Table 3.2
Retiree Job Share Status — Proration of Benefits*

<i>Weekly Hours</i>	<i>Annual Hours</i>	<i>Retiree Status</i>
38	1,976	.95
34	1,768	.85
30	1,560	.75
20	1,040	.50

4. No right to work. A retiree does not have the right to work under this option. The continued employment of a retiree in a phased retirement status must meet the operational needs of the County as determined by the department head or elected official.

5. Health insurance coverage. A retiree working under a phased retirement option may be eligible for continued health insurance coverage through the County's health insurance provider.

C. Department head classification shall receive a proration of department head benefits based on the number of hours worked, as depicted above under Proration of Benefits. As with full-time department head positions, no sick leave or vacation accrual applies.

D. Employees retiring from County service under the State of Colorado PERA retirement program shall be governed by PERA rules and regulations for employees working after service or disability retirement. Refer to PERA rules and regulations. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2005-11; Weld County Code Ordinance 2005-6; Weld County Code Ordinance 2008-6; Weld County Code Ordinance 2008-14)

Sec. 3-2-110. Benefit table.

Table 3.3 describes benefits by employee type for County employees:

Table 3.3
Benefit Table by Employee Type

	<i>Full-Time Regular</i>	<i>Job Share</i>	<i>Seasonal</i>	<i>Part-Time</i>	<i>Hourly</i>	<i>Retired Job Share</i>	<i>Retired Part-Time</i>	<i>Retired Hourly</i>
Step Progression	Yes	Yes	No	**No	No	Yes	No	No
Health Insurance	Yes	*Yes	*Yes	*Yes	No	*Yes	*Yes	No
Disability Insurance	Yes	#Yes	No	Yes	No	Yes	Yes	No
Life Insurance	Yes	Yes	No	Yes	No	Yes	Yes	No
Retirement Plan +	Yes	No	No	No	No	No	No	No
Sick Leave	Yes	*Yes	No	No	No	*Yes	No	No
Vacation Leave	Yes	*Yes	No	No	No	*Yes	No	No
Holiday Pay	Yes	*Yes	No	No	No	*Yes	No	No
Personal Leave	Yes	*Yes	No	No	No	*Yes	No	No
Bereavement Leave	Yes	*Yes	No	No	No	*Yes	No	No
Sick Leave Bank	Yes	*Yes	No	No	No	*Yes	No	No
Grievance Rights	Yes	#Yes	No	No	No	Yes	No	No
* Prorated. An employee must consistently work twenty (20) hours or more per week to receive a prorated health insurance benefit. ** Paramedic Services – yes. + All employees of the Department of Public Health and Environment will be members of PERA. # Working after retirement employees are not eligible.								

(Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2008-6)

Sec. 3-2-120. Reassignment of duties in event of emergency.

As a condition of employment, in the event of a declared emergency by the Board of County Commissioners, or in the case of a pandemic health emergency declared by the County Health Officer, employees who are not required to perform essential functions in their own departments may be reassigned to assist with an emergency at the direction of the Board of County Commissioners. (Weld County Code Ordinance 2006-8; Weld County Code Ordinance 2009-10)

ARTICLE III

Standards of Conduct

Sec. 3-3-10. Expectations of proper conduct.

A. Every County employee should be aware that he or she is a public employee and it is the employee's duty to serve citizens in a courteous and efficient manner. An employee must maintain a standard of conduct and performance which is consistent with the best interests of the County. Examples of conduct that may result in disciplinary action, up to and including termination from employment, include but are not limited to the following:

1. Failure to meet performance standards.
2. Conduct endangering the safety or well-being of self, fellow employees or the public.
3. Negligent or willful damage or waste of public property. This includes misuse of County property, equipment, vehicles or other materials for private gain, use or convenience and unauthorized use, possession or storage of County property.
4. Failure to comply with lawful orders or regulations.
5. Insubordination.
6. Any acts or threats of violence, threatening behavior or the use of obscene, abusive or threatening language or gestures toward the public or fellow employees.
7. Violation of the Drug-Free Workplace policy stated in this Chapter.
8. Unexcused absence (including tardiness).
9. Conviction of a serious crime (Section 3-3-70).
10. Accepting bribes, money, property or services of value in the course of employment.
11. Any material omission or falsehood in the application or interview for employment.
12. Falsifying sickness, or any other cause of absence.
13. Dishonesty.
14. Giving preferential treatment to individuals or groups.
15. Breach of confidentiality.
16. Loss or suspension of driving privileges in those positions that require a valid driver's license.
17. Loss of any license, certification or registration which is required by a position.
18. Any conduct which is likely to have an adverse effect upon the functioning of County government.
19. Violation of any policy duly adopted by resolution or ordinance of the Board of County Commissioners and set forth in Chapters 1 and 2 of this Code, including, but not limited to, smoking in buildings and vehicles under the control of the County and lobbying by County employees without authorization.

B. The foregoing list is for illustrative purposes only and is not intended to be all-inclusive. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4; Weld County Code Ordinance 2007-11)

Sec. 3-3-20. Reporting misconduct.

A. An employee observing misconduct should report the incident immediately to the department head or elected official. Employees may report misconduct of a department head or elected official to the Department of Human Resources.

B. If misconduct did occur, appropriate disciplinary action may be taken. No department head or elected official shall initiate or administer any disciplinary action against an employee on account of the employee's reporting misconduct, unless the reporting employee:

1. Knows that the report is false, or the report was made with disregard to its truth or falsity.
2. Discloses information which is confidential from government records which are closed to the public, pursuant to Section 24-72-204, C.R.S.

3. Discloses information that is confidential under any other provisions of law.

C. Employees should refer to Sections 24-18-101 and 24-18-201, C.R.S., to determine what should be done to comply with state law regarding possible conflict of interest. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-3-30. Workplace violence.

A. The County is committed to preventing workplace violence and to maintaining a safe work environment. Given the increasing violence in society in general, the County has adopted the following guidelines to deal with intimidation, harassment or other threats of violence or acts of violence that may occur during business hours or on its premises.

B. All employees, including supervisors and temporary employees, should be treated with courtesy and respect at all times. Employees are expected to refrain from fighting, horseplay, physical and/or verbal intimidating, threatening or violent conduct, vandalism, sabotage, arson, use of weapons and/or carrying weapons onto County property, or any other conduct that may be dangerous to others. Firearms, weapons and other dangerous or hazardous devices or substances are prohibited from the premises of the County without proper authorization.

C. All suspicious individuals or activities should also be reported immediately to a supervisor. Do not place yourself in peril. If you see or hear a commotion or disturbance near your work station, do not try to intercede or see what is happening. Employees should directly contact law enforcement, security and/or emergency services if they believe there is an imminent threat to the safety and health of themselves or co-workers.

D. The County will promptly and thoroughly investigate all reports of threats of violence or acts of violence and of suspicious individuals or activities. The identity of the individual making a report will be protected as much as is practical. In order to maintain workplace safety and the integrity of its investigation, the County may suspend employees, either with or without pay, pending investigation.

E. The County encourages employees to bring their disputes or differences with other employees to the attention of their supervisors or the Department of Human Resources before the situation escalates into potential violence. The County is eager to assist in the resolution of employee disputes and will not discipline employees for raising such concerns. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-3-40. Searches.

The County reserves the right, upon having reasonable suspicion of wrongdoing by an employee, to conduct, at any time without notice, a reasonable search or inspection of the employee's workplace to discover evidence of the suspected wrongdoing. The search or inspection may include, without limitation, offices, lockers, desks, personal computer files, cabinets, file drawers, packages, envelopes and County vehicles (or personal vehicles when used to conduct County business). Because of this, employees should not bring into the workplace highly personal items. Any evidence of wrongdoing discovered in the course of the search or inspection may be confiscated by the County and turned over to law enforcement representatives, if appropriate. (Weld County Code Ordinance 2003-4)

Sec. 3-3-50. Harassment.

A. The County strongly disapproves of and does not tolerate harassment of any kind, nor any behavior by any employee that creates an unacceptable employment environment or hostile work environment. Any form of harassment that violates federal, state or local law, including but not limited to harassment related to an individual's race, religion, color, sex, sexual orientation, national origin, ancestry, citizenship status, marital status, pregnancy, age, medical condition, handicap or disability is a violation of this policy and is grounds for discipline, up to and including termination from employment. This

may include harassing another on the basis of a perception that someone has a certain personal characteristic, whether or not he or she actually has that characteristic. There does not have to be a persistent pattern, and an isolated incident can amount to harassment. Harassment may involve action, behavior, exclusion, comment or physical contact which is found objectionable, or which creates an offensive environment or results in the recipient feeling threatened, humiliated, intimidated, degraded, patronized, demoralized or less confident in his or her ability. It is the responsibility of every employee to avoid offensive or inappropriate behavior at work and to assure that the workplace is free from harassment at all times.

B. A hostile work environment arises when discriminatory intimidation, ridicule and/or insult is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an offensive working environment.

C. Some examples of unacceptable conduct include: verbal abuse; the use of humor to put another person or group of people down (for example, telling jokes that are sexist, racist or about an individual's sexual orientation [real or perceived]); unwanted physical contact ranging from touching to serious assault; display or circulation of abusive or offensive material; bullying, coercive or menacing behavior; unwanted sexual advances, propositions, attention or innuendo; ridicule or exclusion of an individual for cultural or religious differences; misuse of power or position; or making threats about job security without foundation or authority. Many of these examples of unacceptable conduct can occur not only face to face, but also through use of the Internet or e-mail. It is advised that people take extra care when sending or forwarding messages to consider the impact of the message or any attachment on the recipients.

D. Sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

1. Submission to the sexual harassment is made either explicitly or implicitly a term or condition of employment.
2. Submission to or rejection of the harassment is used as the basis for employment decisions affecting an individual.
3. The harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

E. To maintain an environment free of harassment, employees should confront it and report it when it occurs. Any person who believes he or she has been subjected to harassment in any form is encouraged to take the following action:

1. In circumstances where one does not think one's personal safety will be jeopardized, communicate clearly to the offender that the behavior is not welcomed and should cease immediately.
2. Discuss one's concerns with the Department of Human Resources or other appropriate support person in an effort to resolve the problem informally.
3. Consider the option of choosing a third party mediator to help resolve the complaint.
4. Should mediation efforts not be initiated, or if they fail, file a formal complaint with the Department of Human Resources.

F. The Director of the Department of Human Resources will investigate such incidents. Upon completion of the investigation, the Director of the Department of Human Resources shall report the findings to the appropriate department head or elected official for possible disciplinary action. All cases of harassment will be handled with strong disciplinary action, up to and including termination from employment. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2005-14; Weld County Code Ordinance 2007-4)

Sec. 3-3-60. Drug-free workplace.

A. In accordance with the Drug-free Workplace Act of 1988, the County as a federal grant recipient is required to certify to the granting agency that it will ensure a drug-free workplace. Failure to comply with this requirement could result in suspension of the grant payments, termination of the grant payments or both. It is in the best interest of the County and its employees to provide for a safe, drug-free workplace. This requirement presents both a necessity and an opportunity to take immediate action to eliminate drug abuse from the workplace. To that end, the following policy is in effect:

Statement of Policy

1. All employees are prohibited from being under the influence of alcohol or illegal drugs during working hours and/or while performing any duties for the County.

2. The use, sale, possession, transfer or purchase of illegal drugs on County property, or during working hours and/or while performing any duties for the County, is strictly prohibited and will be subject to disciplinary action, up to and including termination.

3. No alcoholic beverage will be brought onto or consumed on County premises or consumed during working hours or while performing duties for the County. Possession or consumption of alcoholic beverages on County premises or consuming alcoholic beverages during working hours or while on duty for the County will result in disciplinary action, up to and including termination.

4. No prescription drug will be brought onto County premises by any person other than the one for whom it is prescribed. Such drugs will be used only in the manner, combination and quantity prescribed. Employees who must use over-the-counter or prescription drugs that may cause adverse side effects or may affect their ability to perform work in a safe and productive manner must notify their supervisors prior to starting work. The supervisors, after inquiry, will decide if the employees may remain at work and what work restrictions, if any, are necessary.

5. For the purposes of these rules, an *alcoholic beverage* is any beverage that has an alcoholic content in excess of three percent (3%) by volume.

6. *Drug* means any substance other than alcohol capable of altering an individual's mood, perception, pain level or judgment. A prescribed drug is any substance prescribed for individual consumption by a licensed medical physician. An illegal drug is any drug or controlled substance, the sale, possession or consumption of which is illegal."

B. If an employee is suspected of being in violation of the above-stated policy, the employee will be sent to the County-designated drug testing facility for testing at County expense. If the test result is positive, the employee will be placed on *leave without pay* status. The employee will not be allowed to return to work until a negative return-to-duty drug test result is provided. This test will be at the expense of the employee.

C. Any employee found in violation of the above-stated policy will be subject to disciplinary action, up to and including termination from employment for a first offense.

D. Compliance with the above-stated policy is a condition of employment for all employees of the County. Further, any employee who is convicted under a criminal drug statute for a violation or who pleads guilty or nolo contendere to such charges must notify the County within five (5) days of such conviction or plea. Failure to do so will result in disciplinary action, including termination from employment for a first offense. Employees convicted or who plead guilty or nolo contendere to such drug-related violations are subject to termination and/or mandatory attendance and successful completion of a

drug abuse assistance or similar program as a condition of continued employment. All fees for any program will be at the expense of the employee. (Weld County Code Ordinance 2003-4)

Sec. 3-3-70. Suspension and termination for charge with crime.

A. In the event that an employee is formally charged or indicted for the commission of a crime, the department head or elected official may suspend such employee, with or without pay, pending prosecution of the offense. Unless the circumstances are such that immediate action must be taken, the department head or elected official should hold a hearing with the employee prior to a suspension without pay. If the circumstances warrant an immediate suspension without pay, the department head or elected official should hold a hearing with the employee as soon after the suspension takes effect as is practicable. The employee will be informed of the reason for the hearing and will be afforded an opportunity to respond to the charges. The hearing may be very informal, with no required prior notice. No other person besides the department head or elected official and the employee may be present at the hearing. If the department head or elected official determines, based upon the situation, that immediate disciplinary action is appropriate, a hearing as set forth in Section 3-4-10 of this Chapter may take place instead of a hearing as provided in this Section.

B. If an employee is found guilty of any crime by a court or jury, the County shall immediately suspend such employee without pay until the employee's conviction shall become final at the time the employee is sentenced. Notwithstanding the criminal proceeding in which the employee is involved, the County may conduct its own internal investigation of the employee's actions and other job performance. The department head or elected official is authorized to take any appropriate discipline against the employee at any time, up to and including termination. In addition, at the time such employee's conviction is final (i.e., after a finding of guilt and sentencing by a court or other tribunal), notwithstanding any prior disciplinary action, the employee may be terminated. A deferred judgment and sentence upon a plea of guilty or nolo contendere shall be deemed to be a final conviction at the time the employee enters the plea and such plea is accepted by the Court.

C. During the period of time that the employee is suspended with or without pay, the employee is required to notify the department head or elected official of any change in his or her address or phone number or the status of the criminal case. If an employee's suspension without pay continues for up to three (3) months, the department head or elected official shall further investigate the matter. If the department head or elected official determines, based upon the results of the investigation, that disciplinary action is not yet warranted, an additional informal hearing may be held with the employee to determine the status of the criminal proceedings. The department head or elected official may decide to continue the suspension with or without pay. The department head or elected official shall review the status of the suspension on a three-month basis until such time that the employee's case is resolved, a disciplinary action has occurred or both.

D. For the purposes of this Section, *crime* shall be defined as a felony or class 1 or 2 misdemeanor as defined by state law, or a comparable federal or municipal crime or crime in some other state. The term *crime* does not include petty offenses. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2005-14)

Sec. 3-3-80. Valid licensing; certification, registration.

A. In those positions requiring a driver's license, an employee may be suspended without pay upon knowledge by the County of an incident in which the license may be revoked or suspended. If the license is suspended or revoked for any period, upon administrative hearing or upon conviction of a traffic offense, or if the employee is determined by the department head or elected official to be unfit to operate the appropriate vehicle, the employee may be dismissed.

B. All Sheriff's deputies who are assigned to field operation duties must first be commissioned by the Sheriff, pursuant to the provisions of Section 30-10-510, C.R.S. Any deputy assigned to field operations duties and who is decommissioned for such work by the Sheriff has no right to continued employment as a Sheriff's deputy.

C. If an employee's job requires any license, certification or registration, the employee is responsible for obtaining it, keeping it valid and presenting it to the County when requested. Should such required license, certification or registration expire or be revoked, the employee may be suspended without pay or dismissed unless and/or until the license, certificate or registration is renewed or reinstated by law. If the employee's license or registration is not renewed or reinstated within a specific period of time, not to exceed ninety (90) days, the employee may be dismissed. (Weld County Code Ordinance 2003-4)

Sec. 3-3-90. Confidential information.

Because of the nature of County business, employees may have access to information of a confidential nature. This information should not be discussed except with authorized personnel. If any situation arises concerning confidential information in which an employee has a question, the employee should discuss it with his or her supervisor immediately. Misuse or disclosure of confidential information obtained in the course of County employment could result in personal legal liability and disciplinary action, up to and including termination from employment. Documents and copies generated in the course of County employment are the exclusive property of the County and are not to be used for personal use or retained in the possession of an employee. (Weld County Code Ordinance 2003-4)

Sec. 3-3-100. Conflict of interest.

A. Section 16-9 of the Home Rule Charter states that no County officer, member of an appointed Board or employee shall have any interest in any enterprise or organization doing business with the County which might interfere with the unbiased discharge of his or her duty to the public and the best interest of the County. This restriction shall not apply where the officer, member of an appointed Board or employee's department has no direct contact or business transaction with any such enterprise or organization. Specifically, as follows:

1. No employee of the Department of Purchasing shall have any interest in any enterprise or organization doing business with the County.
2. Neither the Treasurer nor employees of the Treasurer's office shall have any proprietary interest in any financial institution in which the County maintains deposits.

B. In the event a question arises as to possible conflict of interest between any County officer, member of an appointed Board or employee, and any enterprise or organization doing business with the County, the question will be presented to the County Council for review, investigation, decision and resolution. The judgment and decision of the Council shall be considered final and shall be made a matter of public record. Conflicts of interest in government employment are also governed by state law, Sections 24-18-101 to 113, and 24-18-201 to 205, C.R.S. Employees should consult with the County Attorney's office for guidance to determine whether a possible conflict of interest exists. (Weld County Code Ordinance 2003-4)

Sec. 3-3-110. Appearance/dress.

A. The County requires all employees to present a professional image to the public and our customers. Accordingly, each employee is required to wear appropriate attire. Employees are expected to dress neatly and appropriately and practice good grooming and hygiene.

B. Employees working in an office environment with public contact are not authorized to wear blue denim jeans (blue jeans) to work except on the day before the 4th of July holiday to honor the Greeley Independence Stampede Celebration, and on the Friday of the week of the County Fair. Shorts are not

authorized to be worn by any County employees while at work. If uniforms are provided, employees may be required to wear them. Certain jobs in the County have specific safety requirements, such as hard hats and steel-toed shoes.

C. While on duty, County employees are not permitted to wear any visible body piercing ornamentation except on the ears.

D. Employees found in violation of this policy may be sent home without pay or with use of accrued leave time to change into proper attire and could be subject to further disciplinary action. Pay status will be determined by the supervisor, department head or elected official. (Weld County Code Ordinance 2003-4)

ARTICLE IV

Discipline and Grievance

Sec. 3-4-10. Disciplinary actions.

A. Disciplinary actions are to be corrective in nature and are intended to provide reasonable means for correcting performance. Disciplinary actions may include, but are not limited to warnings, reprimands, suspension without pay, special review period, demotion and dismissal.

B. For any disciplinary action, short of dismissal, which may result in a loss of pay or benefits, an employee is entitled to a hearing with the department head, elected official, supervisor or other designee who may impose the disciplinary action, at which no other person or representative shall be present. The employee will be informed of the incident that led to the hearing and will be afforded the opportunity to respond to the charges. After hearing and reviewing the employee's response, the department head, elected official, supervisor or other designee will then administer the appropriate discipline. Documentation of the hearing and of the disciplinary action will be forwarded to the Human Resources Office.

C. The County reserves the right to bypass lesser disciplinary action and immediately dismiss an employee, if, in the sole opinion of the County, the employee's conduct, either by itself or considering the employee's prior performance, warrants dismissal or other discipline. Employees holding positions of higher levels of responsibility may be held to higher standards of performance and thus have more severe disciplinary actions imposed on them than those who hold positions of lower responsibility.

D. Department heads, elected officials or their appointees may impose disciplinary actions. However, department heads and elected officials are responsible for disciplinary action initiated by their appointees.

E. At the time disciplinary actions are taken against an employee, if these actions can be grieved, the department head or elected official shall make available to the employee a copy of the grievance section of this Chapter. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-4-20. Dismissal procedures.

A. No dismissal shall be made unless the employee is given a pre-dismissal hearing. These procedures apply to regular employees only. The employee should receive written notification of the following: (1) the reason for the possible dismissal; and (2) the time, date and place of the scheduled pre-dismissal hearing.

B. The pre-dismissal hearing shall be scheduled the next working day after the employee receives the notification. The employee will be placed on administrative leave with pay until a determination of dismissal or retention is made.

C. Attendance at the pre-dismissal hearing is limited to the department head or elected official, the immediate supervisor, the employee being considered for dismissal, the employee's legal counsel if desired and a representative of the Department of

Human Resources. If the employee is represented by legal counsel, the department head or elected official may also have legal representation.

D. The employee shall have the right to make statements to the department head or elected official which may rebut the reasons stated in the pre-dismissal notification. This rebuttal may be presented orally or in writing. The pre-dismissal hearing shall not be a full evidentiary hearing.

E. After receiving said rebuttal and any other appropriate information, the department head or elected official shall, within one (1) working day, render a determination as to whether the employee shall or shall not be dismissed or whether to extend the period of paid administrative leave in order to provide enough time to investigate the incident so as to render an informed decision. If the department head or elected official decides to dismiss the employee, notification will be provided to the employee under separate letter. The notification of dismissal shall include the reasons which the department head or elected official determines to justify dismissal.

F. If the department head or elected official determines that the employee shall be retained, the department head or elected official may elect to impose upon the employee any disciplinary measures short of dismissal. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-4-30. Grieving a dismissal.

If the employee is dismissed pursuant to these procedures, the employee may exercise the right to grieve such dismissal without the necessity of complying with Steps 1, 2, 3 and 4 of the grievance procedure in Section 3-4-60. (Weld County Code Ordinance 2003-4)

Sec. 3-4-40. Employee grievance.

An employee who feels that the policies set forth in this Chapter are not being properly applied, or has any disciplinary action taken against him or her that results in an immediate loss of pay, may file a grievance. These actions include termination, demotion and/or suspension resulting in loss in pay. (Weld County Code Ordinance 2003-4)

Sec. 3-4-50. Nongrievance items.

A. Employees cannot grieve a County policy that has been adopted by the Board of County Commissioners, even if they feel it is an unjust policy. The County's policies are addressed and adopted in public meetings in the form of a County resolution or ordinance. All employees are encouraged to attend public meetings, on their own time, that involve them as taxpayers and employees, in order to voice their opinions.

B. Employees cannot grieve performance evaluations or written counseling forms. They can appeal these to their elected official or department head. (Weld County Code Ordinance 2003-4)

Sec. 3-4-60. Grievance procedure.

The employee grievance procedure is as follows:

A. Step 1. Appeal to immediate supervisor. All grievances must first be presented to the employee's immediate supervisor within five (5) calendar days of the incident which is the subject matter of the grievance.

B. Step 2. Immediate supervisor response to appeal. The immediate supervisor will give the employee an answer within five (5) calendar days of the presentation of the grievance.

C. Step 3. Appeal to the department head or elected official.

1. If the employee is not satisfied with the supervisor's answer to the grievance, the employee may, within five (5) calendar days of receiving the supervisor's answer, appeal the supervisor's answer to the department head or elected official. Such an appeal must be presented in writing. The writing shall state the nature of the grievance and explain the employee's position.

2. Timeliness of appeal. In all cases, failure to submit a written appeal to the department head or elected official within twenty (20) calendar days of the incident which is the subject matter of the grievance shall constitute a stale grievance and waiver of grievance rights for the incident.

3. Appeals directly to the department head or elected official. In those instances when the discipline is being administered directly by the department head or elected official, the employee grievance procedure begins at Step 5.

D. Step 4. Department head or elected official response to the appeal. The department head or elected official shall give a written answer to the grieving employee within five (5) calendar days of the presentation of the grievance.

E. Step 5. Filing a formal written grievance. If the employee disagrees with the department head or elected official's answer, or if grieving a dismissal from employment, the employee may file a formal written grievance with the Department of Human Resources within ten (10) calendar days of receiving the department head's or elected official's written response or dismissal from employment. The written grievance must clearly state the employee's side of the case and must include the following: specifically what decisions or actions the employee is grieving; what remedy the employee is seeking in the grievance; the specific facts as they are known to the employee; any documentation to substantiate the facts; and a summary of the answer of the supervisor and department head or elected official.

F. Step 6. Reconciliation. The Director of Human Resources may attempt to reconcile the differences. If the Director of Human Resources is administering the discipline, the Director of Finance and Administration will attempt reconciliation. If reconciliation is undertaken and it is not successful, a grievance hearing will be scheduled.

G. Step 7. Scheduling the grievance hearing. The Director of Human Resources has fifteen (15) calendar days from receipt of the written grievance to set a grievance hearing date and to notify the employee and department head or elected official of the hearing date. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2005-14; Weld County Code Ordinance 2007-4)

Sec. 3-4-70. Grievance hearing.

A. Presence at hearing.

1. Presence of employee involved. Under no circumstances shall a hearing be conducted without the personal presence of the employee who requested the hearing. However, an employee who fails to appear at such hearing without good cause, as determined by the Grievance Board, shall be deemed to have waived his or her rights to a hearing.

2. Persons in attendance. The grievance hearing is not a public hearing. The Grievance Board, the grieving party plus one (1) representative, the responding department head, elected official or other designated supervisor plus one (1) representative, a representative of the Department of Human Resources, the recorder and any witnesses, while giving testimony, are the only persons allowed to be present at grievance hearings. The grieving employee shall be entitled to be accompanied and represented at the hearing by an attorney or, if not an attorney, any other person of his or her choice.

3. The attorney who represents the grieving employee shall be paid by the employee. In no event shall the County be obligated to pay the employee's attorney fees or any costs associated with the grievance. The responding department head, elected official or other supervisor shall also be entitled to have an attorney representing him or her at the hearing.

B. Composition of Grievance Board. The Grievance Board shall consist of three (3) members as listed below. If either party fails to select a member to serve on the Grievance Board by the date designated by the Director of Human Resources, then the Director of Human Resources shall appoint a member.

1. One (1) County employee chosen by the grieving employee, but not from the employee's own office or department. Said County employee's employment status must include eligibility to participate in grievance procedures; however, said employee may not be called by either party as a witness.

2. One (1) County employee chosen by the department head or elected official that imposed the disciplinary action, but not from the same office or department as the department head or elected official. Said County employee's employment status must include eligibility to participate in grievance procedures; however, said employee may not be called by either party as a witness.

3. One (1) person with labor relations and/or legal background selected from a list certified by the Board of County Commissioners. This person shall serve as the Chairperson of the Grievance Board.

C. Postponements and extensions. Postponements of hearings and extensions of time of hearings may be requested by either party or his or her designated agent. However, the granting of such postponements or extensions shall be made only upon the showing of good cause and is at the discretion of the Director of Human Resources. Postponements or extensions will not exceed two (2) weeks, unless there are extraordinary circumstances. In the event an extension is granted at the request of a disciplined employee, said employee will not be eligible for back pay for the period of the extension should back pay be awarded.

D. Procedure and evidence. The hearing shall be conducted informally and shall not be subject to strict judicial or technical rules of procedure. A wide latitude in the manner of presenting the respective positions should be afforded the parties. The grievance hearing pursuant to these rules shall not be a hearing under the Administrative Procedures Act or an arbitration which may be subject to the rules of the American Arbitration Society.

1. Each party shall, prior to or during the hearing, be entitled to submit memoranda concerning any matters being considered by the Grievance Board. Such memoranda shall become a part of the hearing record.

2. The Grievance Board may exclude unduly repetitious evidence.

3. The Grievance Board shall conduct a de novo hearing of the grievance.

4. Both parties may call witnesses to testify on their behalf and present evidence which is relevant. The grieving party's main personnel file shall automatically become a part of the hearing record.

5. In the event an employee is represented by an attorney, notice of such representation must be submitted to the Human Resources Office at least five (5) calendar days prior to the hearing so that the County Attorney may be prepared to represent the department head or elected official. If the employee cannot afford an attorney, the Grievance Board may, at its discretion, allow a person who is not an attorney to represent the employee.

6. Any attorney who represents a grieving employee shall be paid by the employee. In no event shall the County be obligated to pay the grieving employee's attorney fees or any costs incurred by the employee in the course of the grievance hearing process.

7. Any County employee who is requested by either party to testify at the hearing must comply with the request. Failure to appear and testify upon request will subject the employee to disciplinary action.

8. The Grievance Board members shall not conduct their own pre-hearing investigations or talk with the department head, elected official or any other persons connected with the case about the facts of the case. Discussions, if any, prior to the hearing shall be limited to discussions with the Director of Human Resources as to procedural matters and the method of conducting the hearing.

E. Burden of proof. The grieving employee will have the burden of going forward to establish a prima facie case regarding his or her grievance. *Prima facie* means sufficient evidence to prevail until overcome by other evidence. The department head or elected official shall then have the burden of persuading the Grievance Board of his or her position by a preponderance of evidence. *Preponderance of the evidence* is defined as that evidence which is most convincing and satisfying in the controversy between the parties, regardless of which party may have produced such evidence. Colorado Civil Jury Instructions 2d, Section 3:1(4).

F. Record of hearing. A record of the hearing shall be kept by an electronic recording unit. Either party may request the use of a court reporter instead of or in addition to the electronic recording unit. The requesting party shall pay for all costs associated with using the court reporter.

G. Decision of the Grievance Board.

1. The Grievance Board shall either grant or deny all or any portion of the employee's grievance. The Grievance Board will not formulate any policies or procedures, but may interpret policies and procedures set forth in this Chapter. The Grievance Board shall not fashion any binding remedy, but may suggest remedies to department heads or elected officials. A majority vote of the Grievance Board shall represent the official decision of the Grievance Board.

2. Upon completion of the grievance process and within ten (10) calendar days of the hearing's conclusion, a written report of the findings of fact and a decision of the Grievance Board will be prepared. A copy will be distributed to the grieving employee, the grieving employee's supervisor and department head or elected official and the Department of Human Resources.

3. The Grievance Board's decision is final, unless timely appeal is made to the Board of County Commissioners as indicated below.

H. Appeal. Any party who seeks to modify the decision of the Grievance Board may appeal the matter to the Board of County Commissioners. To do so, the party must file a written notice of appeal with the Director of Human Resources within ten (10) calendar days of receiving the Grievance Board's decision. The notice of appeal must specifically state what part of the decision the party seeks to have modified and the reasons therefor. The notice shall not exceed five (5) pages in length. The party opposing the modification may submit a memorandum brief, but must do so within five (5) calendar days of receiving the notice of appeal. Any such memorandum brief shall not exceed five (5) pages in length.

I. Review of appeal.

1. The Director of Human Resources shall transmit the Grievance Board's decision, the notice of appeal and any memorandum brief to the Board of County Commissioners for review.

2. The Board of County Commissioners may affirm the Grievance Board's decision, modify it in whole or in part, or remand the matter to the Grievance Board for further fact-finding. A modification may only be made if, based upon the Grievance Board's findings of fact, the decision is clearly wrong or is in excess of the Grievance Board's jurisdiction, authority, purposes or limitations as defined by this Chapter and the procedures outlined in Chapter 2 of this Code. The Board of County Commissioners may review the entire hearing record upon a majority vote of the Board of County Commissioners.

3. Regardless of the above-stated grievance procedures, all employees are considered to be *at-will* employees and these procedures are not intended to create, nor are they to be considered to constitute, a contract between the County and any one (1) or all of its employees. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2005-14; Weld County Code Ordinance 2007-4)

ARTICLE V

Termination of Employment

Sec. 3-5-10. Workforce reduction.

A. The Board of County Commissioners reserves the right to make reductions in force or layoffs, and/or eliminate employment positions at any time for any reason. Such reasons may include, but are not limited to, the following: workload changes, program changes, privatization, contracting out, policy decisions, funding reductions, departmental reorganizations, downsizing and increased efficiency. The terms *reduction in force*, *layoff* and *elimination of employment positions* are synonymous for the purposes of this Section.

B. The Board of County Commissioners, elected officials and all department heads retain the right to determine the structure and organization of the various departments of County government which, in the sole opinion of such officials, will create the greatest efficiency and highest level of service to citizens of the County. Such decisions include, but are not limited to, the hiring, retaining, promoting, reducing pay and rehiring of employees who may have been impacted by decisions to reduce the force, lay off and/or eliminate employment positions. The decisions by such officials to hire, retain, promote, reduce pay and/or rehire is not a grievance item. All decisions made pursuant to the provisions contained herein shall be in accordance with state and federal law.

C. Each employee whose employment position has been eliminated shall receive notice of such action, in writing, from the Department of Human Resources or the Board of County Commissioners. The employee must receive the notice at least ten (10) working days before the date of his or her release. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-5-20. Resignation or retirement.

A. Employees are requested to notify their supervisor in writing as soon as possible of their intent to resign. As a matter of professional courtesy, at least a two-week notice before date of resignation is a standard practice. The last day worked will be considered the termination date, with the exception of retiring employees.

B. An employee who wishes to retire should call the Department of Human Resources at least thirty (30) days prior to the retirement date.

C. All regular County employees who terminate employment for any reason must return the County picture ID card, keys, employee benefit binder and any other County property.

D. Final paychecks for terminating employees will be issued within twenty-four (24) hours of the Department of Human Resources receiving the appropriate paper work from the employee's department. If the termination date falls during the payroll processing period, the manual pay check will be issued the day after the close of payroll. The check will be mailed to the employee's current address or, upon request, may be picked up in the Department of Human Resources after 4:30 p.m. on the day the check is issued. Final pay may be deposited into a bank account on the last working day of the month by notifying the Department of Human Resources prior to the termination processing. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2005-14; Weld County Code Ordinance 2006-8; Weld County Code Ordinance 2007-4)

Sec. 3-5-30. Retirement contributions.

A. An employee terminating employment from the County, for whatever reason, who is not vested in the retirement program will have his or her contribution to the County Retirement Plan reimbursed with the earned interest. All refunds must be approved by the Retirement Board. Refunds will be processed as soon as possible after the signed papers are received from the terminating employee. Retirement funds will not be processed pending any grievance concerning dismissal.

B. PERA members must apply for their PERA refund via the State PERA office. PERA refunds may take up to ninety (90) days from date of application for refund. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2005-14)

Sec. 3-5-40. Abandonment of position.

Failure to appear for work and failure to call in for three (3) consecutive days without a reason acceptable to the County may result in dismissal. (Weld County Code Ordinance 2003-4)

Sec. 3-5-50. References.

The Department of Human Resources will be the only contact for job references. Any reference provided by an individual other than the Department of Human Resources will be considered a personal reference, and the provider shall assume all liability for the information provided. No references on individuals are to be written on County letterhead unless they are approved by the Department of Human Resources. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

ARTICLE VI

Leave Time Benefits

Sec. 3-6-10. Vacation leave.

A. No annual leave is earned during the first six (6) months of employment. Upon successful completion of the first six (6) months, employees eligible for vacation accrual will be awarded earned vacation hours. *Successful completion* means that the employee meets or exceeds appraisal standards on the employee's six-month performance appraisal. Employees may schedule vacation leave after the successful completion of the first six (6) months.

B. Vacations must be scheduled in advance with the employee's supervisor. Vacation shall not conflict with work requirements of the department. Scheduled vacations may be canceled at any time for any reason by the department head or elected official. Annual vacation is earned according to length of County service as shown on Table 3.4:

*Table 3.4
Annual Vacation Accrual*

<i>Continuous Years of County Service</i>	<i>Hours Accrued Monthly</i>	<i>Job Share Accrual</i>		<i>Retired With Benefits Accrual</i>			
		<i>.50</i>	<i>.75</i>	<i>.50</i>	<i>.75</i>	<i>.85</i>	<i>.95</i>
Under 5	8	4	6	4	6	6.8	7.6
5 through 9	10	5	7.5	5	7.5	8.5	9.5
10 through 19	12	6	9	6	9	10.2	11.4
20	13.33	6.5	10	6.5	10	11.33	12.66

C. An employee cannot accumulate in excess of three hundred twenty (320) hours. Vacation time cannot be used in conjunction with a termination. The last day worked will be considered the termination date, with the exception of retiring employees. Earned but unused vacation will be payable upon termination of employment.

D. Official holidays occurring during vacation leave are counted as holidays, not as vacation. Illness and emergency closure days during vacation periods are counted as vacation days.

E. Department heads, chief deputies and elected officials designated by the Home Rule Charter and the Board of County Commissioners do not accrue paid vacation. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-6-20. Sick leave.

A. Sick leave is not a right. It is a privilege given to eligible employees to be used in the following circumstances:

1. When an employee is unable to perform the job duties because of illness, injury or any other medically disabling condition.
2. When the employee has medical, surgical, dental or optical examinations or treatment.
3. An employee who is required to care for members of the immediate family, as defined under the Federal Medical Leave Act (FMLA) (spouse, child or parent), who are ill, may use a maximum of forty (40) hours total per year of accumulated sick leave. (Prorated for job share employees.) For the purposes of the FMLA, the employee's child must be under the age of eighteen (18), or if older there must be medical certification showing the child is disabled.
4. Sick leave during, and as the apparent result of, a pandemic health emergency which has been declared by the County Health Officer shall be addressed in the same manner as regular sick leave, with no change in the rules set forth in this Article, except for modification as detailed in the rules set forth in Subsections E and F below

B. All regular and job share employees are eligible for sick leave thirty (30) days after employment. Sick leave is accrued from date of hire with no maximum accrual limit. The accrual rate is shown on Table 3.5:

*Table 3.5
Sick Leave Accrual Rates*

<i>Sick Accrual</i>	<i>Hours Accrued Monthly</i>
Regular Employee	8
Job Share .75	6
Job Share .50	4
Retired with Benefits .50	4
Retired with Benefits .75	6
Retired with Benefits .85	6.8
Retired with Benefits .95	7.6

C. For employees hired prior to January 1, 1985, accumulated sick leave is payable upon termination at one-half (½) the hours of accumulated unused sick leave, not to exceed one (1) month's salary. Employees hired after January 1, 1985, will not be paid for accumulated sick leave upon termination of employment.

D. An employee is to report his or her absence daily directly to his or her supervisor within one (1) hour of the employee's regular starting time. Failure to report may be considered cause for denial of paid sick leave for the period of absence unless the employee furnishes an acceptable explanation. Not calling in and obtaining an approved absence for three (3) days is considered abandonment of job and may result in termination.

E. An employee may be required to provide a medical doctor's verification that the employee has been seen at a clinic for an illness or a medical doctor's verification of fitness for duty at any time. Abuse of sick leave or excessive absenteeism may

result in the loss of the privilege to accumulate sick leave or may result in other disciplinary actions, including termination. An employee who is absent from work for medical reasons for more than three (3) days, or is absent intermittently for the same condition, may be required to provide a doctor's certification and to complete all forms as directed under the Family Medical Leave Act. No medical doctor's verification shall be required when the serious health condition occurs during, and is the apparent result of, a pandemic health emergency which has been declared by the County Health Officer.

F. All employees who are eligible to accrue sick leave are authorized five (5) sick leave occurrences per calendar year. A *sick leave occurrence* is defined as a minimum of one (1) sick leave day, a number of consecutive sick leave days taken at any one (1) time or a combination of hours equaling one (1) sick day (prorated for standard hours worked in a day). Employees who exceed the five (5) occurrences are subject to disciplinary action, including but not limited to the revocation of all sick leave privileges as set forth in this Section, suspension, leave without pay and/or termination. Sick leave which occurs during, and as the apparent result of, a pandemic health emergency which has been declared by the County Health Officer shall not be considered as a sick leave occurrence pursuant to this Subsection.

G. Advanced sick leave is not permitted. Employees may not carry negative sick hours.

H. Under no circumstances may sick leave be used for more than six (6) months consecutively. This is so coordination may happen with the County's long-term disability program. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2005-14; Weld County Code Ordinance 2009-10)

Sec. 3-6-30. Sick leave bank.

A. In order to provide a no-cost, short-term disability program for employees, the County has established a Sick Leave Bank Program. This program is voluntary and the sick leave is to go solely to members of the Sick Leave Bank.

B. The Sick Leave Bank is based on a donation of hours of the individual's sick leave, per member, per year (regular employee = 12 hours; three-quarter-time job share = 9 hours; half-time job share = 6 hours). Participation is voluntary. Employees who do not contribute to the Bank cannot use sick leave bank hours. Employees are eligible to join the Sick Leave Bank upon being hired; however, they are only eligible to receive sick leave from the Bank after twelve (12) months of contribution. Only regular employees and job share employees are eligible for the Bank. Approval of a Sick Leave Bank request is not guaranteed by the department head, elected official or Sick Leave Bank Governing Board.

1. Each month, a prorated donation of hours of the employee's individual sick leave will be deducted and credited to the Bank (regular employee = 1; three-quarter-time job share = .75; half-time job share = .5; retired with benefits: at .95 level = .95 hr/month (11.4 hr/year); at .85 level = .85 hr/month (10.2 hr/year); at .75 level = .75 hr/month (9 hr/year); at .50 level = .5 hr/month (6 hr/year)).

2. Sick leave days in the Bank are carried over from year to year. An additional contribution is required each month of succeeding years while a member of the Bank. Hours donated to the Bank are not refundable.

3. The Bank is administered by the Sick Leave Bank Governing Board. The Board is composed of five (5) voting members. These include five (5) employees elected by the participants in the Bank and one (1) nonvoting representative from the Department of Human Resources. The following conditions govern the granting of sick leave days from the Bank:

a. Application forms are available through the Department of Human Resources. Applications for benefits from the Bank are made in writing to the Governing Board via the Department of Human Resources.

- b. If a member is unable to apply for himself or herself, the application may be filled out by a family member or other representative.
- c. A medical doctor's statement specifying the nature of illness, the dates and medical service to the member and the date of the patient's expected release for return to work will be presented with the application. If this information is not included, the application may not be considered. Additional information may be requested at the discretion of the Governing Board.
- d. Prior to consideration by the Governing Board, a member must:
- 1) Review and sign the application.
 - 2) Provide any applicable information concerning any disciplinary action of the employee related to the abuse of sick leave.
- e. The Governing Board will consider the application at a meeting called by the Board's Chairperson.
- f. The department head or elected official may attend the Governing Board meeting with, or for, that individual to discuss any problems related to the request. No other person may attend the Governing Board meeting. The Governing Board will consider the request and make a decision based on a majority vote.
- g. Bank hours will not be granted until a member has used all of his or her individual sick leave days, vacation days and any accumulated compensation time. At the discretion of the Governing Board, Sick Leave Bank hours may not be granted if the requesting employee is involved in disciplinary action related to the abuse of sick leave.
- h. If the request is granted, the Sick Leave Bank days will not begin until thirty (30) calendar days have expired. This thirty-day elimination period begins on the first day of leave, whether it is paid or not.
- i. Not more than five (5) months shall be granted to one (1) member in a two-year period. An employee may not have more than six (6) months of combined, consecutive paid and/or unpaid leave.
- j. Upon approval by the Governing Board, the Sick Leave Bank member will receive sixty-six percent (66%) of his or her current hourly compensation based on the number of hours of sick bank time during the pay period.
- k. Sick Leave Bank hours may be granted only in cases of personal illness or injuries. This excludes use of Bank hours for illnesses of family members. Other exclusions include but may not be limited to:
- 1) Elective or cosmetic surgery.
 - 2) Loss resulting from war.
 - 3) Committing or attempting to commit an assault or a felony.
 - 4) Occupational injuries or sicknesses.
 - 5) Willful self-injury.
 - 6) Injury from outside employment.
 - 7) Active participation in a riot.
 - 8) Any other reason that the Governing Board finds to deny the request.
- l. If the leave is denied by the Governing Board, the Board will notify the applicant in writing, stating the reasons for the denial.

m. Any unused Sick Leave Bank hours granted by the Board shall be returned to the Bank.

n. Sick Leave Bank hours can only be awarded up to the amount of total accumulated hours in the Bank. The Department of Human Resources will maintain an accounting of total accumulated hours in the Bank and report to the Governing Board the status of the Sick Leave Bank on a monthly basis.

o. The award of sick leave from the Sick Leave Bank related to child birth (complications of pregnancy before delivery non-inclusive) is limited to the following:

1) Routine child birth is eligible for two (2) weeks of Bank hours.

2) Child birth by caesarian section, or with complications, is eligible for up to four (4) weeks of Bank hours.

3) At the discretion of the Governing Board, complications of pregnancy may be eligible for additional Bank hours.

4. Upon termination from the County, a Bank member will no longer be eligible to draw sick leave time from the Bank.

5. The Governing Board assumes the full responsibility for the control of the Bank, and all decisions of the Board are final and are not grievance items pursuant to the grievance procedure found in Section 3-4-60 of this Chapter.

6. The Sick Leave Bank Program may be terminated at any time by the Board of County Commissioners for any reason by resolution.

7. There shall be no sick or vacation accrual by an employee while on Sick Leave Bank time unless the leave falls under the Family and Medical Leave Act. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4; Weld County Code Ordinance 2009-7)

Sec. 3-6-40. Short-term disability.

Employees who are not eligible for the Sick Leave Bank; e.g., who have less than one (1) year of employment or who do not wish to join the Bank, can purchase short-term disability insurance provided as a group policy by the County. The employee pays the total premium for this insurance. An employee may not participate in both Sick Leave Bank and short-term disability plans at the same time. (Weld County Code Ordinance 2003-4)

Sec. 3-6-50. Family and medical leave policy.

A. General provisions. It is the policy of the County to grant up to twelve (12) weeks of family and medical leave during any twelve-month period to eligible employees, in accordance with the Family and Medical Leave Act of 1993 (FMLA). The leave may be paid, unpaid or a combination of paid and unpaid, depending on the circumstances and as specified in this Article.

B. Eligibility. In order to qualify to take family and medical leave under this policy, the employee must meet all of the following conditions.

1. The employee must have worked for the County at least twelve (12) months, or fifty-two (52) weeks, which need not have been consecutive. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on leave during the week.

2. The employee must have worked at least one thousand two hundred fifty (1,250) hours during the twelve-month period immediately before the date when the leave would begin.

C. In order to qualify as FMLA leave under this policy, the employee must be taking the leave for one of the reasons listed below.

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

2. The placement of a child for adoption or foster care.
3. To care for a spouse, child or parent with a serious health condition.
4. The serious health condition of the employee which makes the employee unable to perform the functions of the employee's position.

D. A *serious health condition* is defined as an illness, injury, impairment or physical or mental condition which requires inpatient care at a hospital, hospice or residential medical care facility, or a condition which requires continuing care by a licensed health care provider.

E. This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition which, if left untreated, would result in a period of incapacity of more than three (3) days, would be considered a serious health condition.

F. Employees with questions about what illnesses are covered under this FMLA policy or under the County's sick leave policy may call the Department of Human Resources.

G. The County will require an employee to provide a doctor's certification of the serious health condition. The certification process is outlined in Subsection N.

H. An eligible employee can take up to twelve (12) weeks of leave under this policy during any twelve-month period. The County will use the twelve-month period measured forward from the date any employee's first FMLA leave begins in determining the twelve (12) weeks of leave entitlement.

I. If a husband and wife both work for the County and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care with the employee, or to care for a child or parent with a serious health condition, the husband and wife may only take a total of twelve (12) weeks of leave. For the purposes of the FMLA, the employee's child must be under the age of eighteen (18), or, if older, there must be medical certification showing the child is disabled.

J. Employee status and benefits during leave.

1. While an employee is on leave, the County will continue the employee's vacation and sick

leave accruals and health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

2. If the employee chooses not to return to work for reasons other than a continued serious health condition, the County will require the employee to reimburse the County the amount it paid for the employee's health insurance premium during the leave period. An employee must return for at least thirty (30) days to be considered to have returned unless the employee retires following leave.

3. Under current County policy, the employee pays a portion of the health care premium. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Department of Accounting by the end of each month. If the payment is more than thirty (30) days late, the employee's health care coverage may be dropped for the duration of the leave.

4. If the employee contributes to a life insurance plan, the employer will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee must continue to make those payments, along with the health care payments. If the employee does not continue these payments, the County may discontinue coverage during the leave period or will recover the payments at the end of the leave period in a manner consistent with the law.

K. Employee status after leave.

1. An employee who takes leave under this policy will be able to return to the same job or a job with equivalent status, pay, benefits and other employment terms. The position will be the same or one (1) which entails substantially equivalent skill, effort, responsibility and authority.

2. Medical certification that the employee is able to return to work may be required.

3. The County may choose to exempt certain highly compensated employees from the requirement and not return them to the same or similar position.

L. Use of paid and unpaid leave.

1. If the employee has accrued paid leave, the employee must use paid leave first and take the remainder of the twelve (12) weeks as unpaid leave.

2. An employee who is taking leave because of the employee's own serious health condition or the serious health condition of a family member must use all accrued paid vacation leave, comp time and qualifying sick leave prior to being eligible for unpaid leave. Under the County's sick leave policy, the limit of paid sick leave to care for family members is a maximum of forty (40) hours total per year.

3. An employee taking leave for the birth of a child must use paid sick leave for physical recovery following childbirth. The employee must then use all accrued paid leave and then will be eligible for unpaid leave for the remainder of the twelve (12) weeks.

4. An employee who is taking leave for the adoption care or foster care of a child must use all paid vacation leave, qualifying sick leave, personal leave and comp time prior to being eligible for unpaid family leave. Care leave for adoption, birth or foster care expires twelve (12) months from the date of the birth or placement.

M. Intermittent leave or a reduced work schedule.

1. The employee may take FMLA leave in twelve (12) consecutive weeks, may use the leave intermittently (take a day periodically when

needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced-hour schedule. In all cases, the leave may not exceed a total of twelve (12) weeks over a twelve-month period.

2. When an employee is using foreseeable intermittent leave, the County may require the employee to transfer temporarily to an available alternative position with equivalent pay and benefits.

3. For the birth, adoption or foster care of a child, the County and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced-hour schedule. Leave for birth, adoption or foster care of a child must be taken within one (1) year of the birth or placement of the child.

4. If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee must reach agreement with the County before taking intermittent leave or working a reduced-hour schedule. If this is not possible, the employee must prove that the use of the leave is medically necessary. The County may require certification of the medical necessity, as discussed in Subsection N.

N. Certification of the serious health condition.

1. The County will ask for certification of the serious health condition. The employee must respond to such a request within fifteen (15) days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

2. Certification of the serious health condition shall include the date when the condition began, its expected duration and diagnosis, and a brief statement of treatment. For medical leave for the employee's own medical condition, the certification must also include a statement that the employee is unable to perform the essential functions of the employee's position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and that the employee's presence would be beneficial or desirable.

3. If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment and a statement of medical necessity for taking intermittent leave or working a reduced schedule.

4. The County has the right to ask for a second opinion. The County will pay for the employee to get a certification from a second doctor, which the County will select.

5. If necessary to resolve a conflict between the original certification and the second opinion, the County will require the opinion of a third doctor. The County and the employee will jointly select the third doctor, and the County will pay for the opinion. This third opinion will be considered final.

O. Procedure for requesting leave.

1. Except where leave is not foreseeable, all employees requesting leave under this policy must submit the request in writing to their immediate supervisor. The supervisor will forward a copy to the Department of Human Resources.

2. When an employee plans to take leave under this policy, the employee must give the County thirty (30) days' notice. If it is not possible to give thirty (30) days' notice, the employee must give as much notice as is practicable. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule the treatment to minimize disruptions to the County's operations.

3. If an employee fails to provide thirty (30) days' notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least thirty (30) days from the date the employer receives notice.

4. While on leave, employees are requested to report periodically to the County regarding the status of the medical condition and their intent to return to work. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2005-14; Weld County Code Ordinance 2007-4; Weld County Code Ordinance 2009-1)

Sec. 3-6-60. Personal leave.

Personal leave is a privilege granted to regular and job share employees. Employees in their initial review period are not eligible. Each year, with supervisory approval, a regular employee may convert sixteen (16) hours; job share .75 may convert twelve (12) hours; job share .50 may convert eight (8) hours; and retired with benefits .75 may convert twelve (12) hours, .50 may convert eight (8) hours, .85 may convert thirteen and six-tenths (13.6) hours, and .95 may convert fifteen and two-tenths (15.2) hours of sick leave into personal leave hours. Personal leave time may not be carried over from year to year. The method of scheduling and the timing of personal leave time is at the discretion of the elected official or department head. Because of the payroll system, personal leave days must be used by December 15 of the same year during which they are granted. (Weld County Code Ordinance 2003-4)

Sec. 3-6-70. Holidays.

A. All regular and job share employees will receive paid holidays. Dates will be established annually and will be published by resolution of the Board of County Commissioners. Recognized holidays are as follows:

1. New Year's Day.
2. Martin Luther King Day (floating).
3. President's Day.
4. Memorial Day.
5. Fourth of July.
6. Colorado Day (floating).
7. Labor Day.
8. Columbus Day (floating).
9. Veterans Day.
10. Thanksgiving Day.
11. Christmas Day.

B. Regular employees shall consider a holiday as eight (8) hours of paid time; job share .75, six (6) hours; job share .50, four (4) hours; and retired with benefits .95, seven and six-tenths (7.6) hours, retired with benefits .85, six and eight-tenths (6.8) hours, retired with benefits .75, six (6) hours, and retired with benefits .50, four (4) hours of paid time. These hours may or may not correspond with the assigned work shift. To be eligible for holiday pay, an employee must be on paid status the workday before and the workday after the holiday. Employees working on an official holiday may receive a day off in lieu of the official holiday or may be paid straight time for working on the holiday. No employee assigned to shift work shall receive a greater or a lesser number of holidays in any calendar year than employees regularly assigned to work during the normal workweek.

C. A day proclaimed a day of national/state mourning or celebration shall be treated the same as a holiday described in Subsection B above.

D. The Board of County Commissioners hereby reserves to itself the authority to establish legal holidays for all County offices. (Weld County Code Ordinance 2003-4)

Sec. 3-6-80. Bereavement leave.

Leave of absence with pay because of death in the immediate family may be granted to regular and job share employees by the department head or elected

official for a period not to exceed three (3) days. Entitlement to leave of absence under this Section shall be in addition to any other leave. For purposes of this Section, *immediate family* means: spouse, child, parent, stepparent, stepchild, sibling, half-sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, spouse's grandparent, grandchild, step-grandchild, foster parent, foster child and guardian. (Weld County Code Ordinance 2003-4)

Sec. 3-6-90. Leave of absence without pay.

A. Employees may be entitled to a leave of absence without pay for good and sufficient personal reasons after exhausting applicable paid leave. Each case will be considered individually. Application for leave of absence must be made in writing and must be approved in writing by the department head or elected official before the commencement of leave. Right of reinstatement shall terminate if the employee on leave engages in gainful employment.

B. The maximum length of such leave of absence will be ninety (90) days. Time taken off for other leaves of absence or any paid leave shall be included as part of the ninety-day maximum. This leave may be extended only with approval of the Board of County Commissioners and then only upon written application giving compelling reasons. If an employee does not return to work on or before the agreed-upon date or come to an agreement with management on an extension, the employee will be terminated. (Weld County Code Ordinance 2003-4)

Sec. 3-6-100. Jury duty/witness.

An employee who is regularly employed, as defined by Section 13-71-126, C.R.S., and who is required to serve as a witness in a case involving the County government or as a juror during scheduled work time, is entitled to paid leave not to exceed three (3) weeks. An employee who serves on a jury shall pay to the County all amounts received for the jury service. In order to be granted leave for jury duty, the employee must submit a copy of the summons and all forms furnished by the Clerk of the Court relative to the time of service. Mileage allowances can be retained by the employee. An employee who is subpoenaed to appear as a witness in a case unrelated to County business must use paid leave, if available. If no paid time is available, the time off will be leave without pay. Employees must avoid situations in which they, through their voluntary actions, may be called to testify in private civil matters, wherein knowledge of confidential facts, circumstances or opinions they have obtained in the scope and course of their work may be revealed. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2008-6)

Sec. 3-6-110. Closure of County operations.

A. In the event the County closes operations or facilities due to inclement weather or other emergencies, regular and job share employees scheduled to work will be paid. Employees required to work during such closure due to County needs shall not be paid any additional salary, compensation or compensatory time off. An employee already on leave of any type on a closure day shall be charged for that leave day as if County operations were normal.

B. An employee unable to be in attendance due to inclement weather or other emergencies when County operations and facilities are open shall be charged appropriate leave. (Weld County Code Ordinance 2003-4)

Sec. 3-6-120. Professional leave.

Upon approval of the department head or elected official, an employee may be granted professional leave to attend professional and technical conferences, meetings and training that pertain to an employee's current or expected duties. No more than the actual time needed, plus travel time, will be granted under professional leave. Professional leave must be arranged in advance with the employee's supervisor. (Weld County Code Ordinance 2003-4)

Sec. 3-6-130. Department head leave.

Department heads do not accrue sick and vacation leave. Department heads will schedule vacation leave with their supervisors. Department heads may use up to six (6) months of leave for an illness prior to commencement of long-term disability. Any extension over the six (6) months must be approved by the Board of County Commissioners. (Weld County Code Ordinance 2003-4)

Sec. 3-6-140. Military leave of absence.

A. Any elected official, department head or employee who is a member of the National Guard or reserve forces is entitled to receive up to fifteen (15) days per calendar year military leave of absence (*military leave*). Military leave is granted without loss of pay, seniority, status, performance rating, vacation leave, sick leave or other benefits for all of the time the individual is engaged in training or service as ordered by an appropriate military authority.

B. Upon returning to work, the elected official, department head or employee shall pay to the County all wages received from the national guard or reserve forces for the time spent performing required military training or service, exclusive of any travel allowance or other expenses paid as indicated on the military voucher. The individual has the option of keeping his or her military pay in lieu of receiving his or her regular pay from the County for the time during which he or she was engaged in the military training or service. If an employee elects to keep the military pay, the County regular pay will be reduced by the per-day rate of the military pay for each workday served, up to fifteen (15) days. The per-day rate is determined by the amount of the basic pay divided by the number of days served as indicated on the military pay voucher. The employee must provide a military pay voucher for the time period served to determine the per-day rate and must forward a copy to the Department of Human Resources within thirty (30) days of returning to work at the County.

C. If an elected official's, department head's or employee's military status changes from reserve to active in time of war or other emergency as declared by proper military authority (extending beyond the fifteen [15] days per calendar year), the individual shall be entitled to leave without pay until reinstated following the active service time.

D. Copies of military orders shall be submitted to the individual's supervisor and the Department of Human Resources at least two (2) weeks prior to the beginning of military leave. For more detailed information regarding military leave, contact the Department of Human Resources. The County complies with all sections of Title 38, U.S.C., Chapter 43, Employment and Reemployment Rights of Members of the Uniformed Services. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

ARTICLE VII**Wages and Hours****Sec. 3-7-10. Workweek and workday.**

All regular County employees will normally be scheduled to work a forty-hour week. Proper scheduling may require employees to work more (or less) than eight (8) hours in one (1) day in order for a department to be more cost-effective and to better serve the public. Normal hours are 8:00 a.m. to 5:00 p.m., Monday through Friday; however, the hours may vary depending upon department needs. The normal workweek begins at 0001 hours Sunday and runs through 2400 hours on Saturday. Departments have the option of establishing their own workweek to fit their needs. This information will be provided to the Department of Human Resources and the Department of Accounting. County employees are to report to assigned work sites in order to begin work at designated starting times. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-7-20. Employee classification.

All County employees will be classified as exempt or nonexempt from overtime provisions. Each department head or elected official shall prepare a schedule designating the hours each employee in his or her department shall work, as well as the established workweek for the department. Work by an employee at times other than those scheduled shall be approved in advance by the department head or elected official or, in cases of unforeseen emergency, shall be approved by the department head or elected official after the emergency work is performed. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2005-14)

Sec. 3-7-30. Compensation for overtime.

A. All nonexempt employees, with the exception of public safety employees as classified in accordance with the FLSA, who work more than forty (40) hours in their established workweek will be compensated at one and one-half (1½) times their regular rate.

B. All overtime will be approved by the department head or elected official in advance, except in emergency situations.

C. All nonexempt employees are required to complete an earning time sheet for each pay period. Pay cycles may vary but County pay periods will remain the 16th of the month through the 15th of the next month (the Department of Social Services pay period is the first of the month through the end of the month), payable on the last working day of the month. Time sheets will be submitted to the Department of Accounting for pay calculation and filing. Time sheets will be retained for a period of three (3) years.

D. Compensatory time may be given in lieu of pay. An individual agreement is available from the Department of Human Resources.

E. Exempt employees receive a salary to compensate them for the performance of all their duties performed and time worked. These employees, as classified in accordance with the FLSA, do not receive overtime.

F. Nonexempt employees, except public safety employees as classified in accordance with the Federal FLSA, accrue overtime at the rate of one and one-half (1½) times for all time worked over forty (40) hours in a normal workweek. Nonexempt employees will be paid earned overtime based upon the final hours for the current pay period as shown on the earning time sheet. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-7-40. Time worked.

A. All time worked for nonexempt employees will be recorded and paid in accordance with the FLSA. Questions regarding work time and the FLSA should be addressed to the Department of Human Resources.

B. Any paid time not actually worked will not be counted as time worked for overtime compensation purposes (sick, vacation, holiday, personal leave, etc.). (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-7-50. Meal hours.

Employees working an eight-hour day may receive, as scheduled by the department head or elected official, thirty (30) to sixty (60) minutes for meal time. Time of day may vary based on shift schedules and as supplemented by departments. Meal time not taken may not be accumulated or used at the beginning or end of the day. Any break of thirty (30) minutes or longer shall not count towards time worked. (Weld County Code Ordinance 2003-4)

Sec. 3-7-60. Breaks.

At the supervisor's discretion, employees may be granted one (1) fifteen-minute break within a four-hour period of time if it does not disrupt work flow. Breaks not taken may not be accumulated or used at the beginning or end of the day or in conjunction with meal hours. (Weld County Code Ordinance 2003-4)

Sec. 3-7-70. Compensatory time off.

Compensatory time off (comp time) in lieu of overtime may be given if there is an understanding between the County and the employee to provide time off as compensation for overtime. To maintain a record of this understanding, a comp time form is available from the Department of Human Resources. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

ARTICLE VIII

Health and Safety

Sec. 3-8-10. Complying with safety rules and regulations.

Employees are required to comply with all safety rules and regulations. Failure to do so will result in disciplinary action and could result in a reduction in workers' compensation benefits if an accident resulted from failure to comply with the safety rules. If an employee has any questions concerning a department's requirements, the employee should contact the supervisor. (Weld County Code Ordinance 2003-4)

Sec. 3-8-20. Reporting of injuries.

A. If an employee is injured, even slightly, or suspects he or she has been injured, the employee must report this fact to his or her immediate supervisor at once. To be eligible for workers' compensation benefits, an employee must be examined and treated initially by the established County Workers' Compensation primary medical care facilities.

B. Completion of the Employee's Written Notice of Injury to Employer must be accomplished by the injured employee and given to the immediate supervisor, or Department of Human Resources, within twenty-four (24) working hours of the injury. The supervisor will complete an Accident Investigation Report, and the injured employee will be required to review and sign it. The Employer's First Report of Accident form must be submitted to the Department of Human Resources within twenty-four (24) hours of the accident. The supervisor's Accident Investigation Report must be submitted to the Department of Human Resources within forty-eight (48) hours of the accident. The injured employee needs to review and sign the Workers' Compensation Designated Medical Provider List and HIPAA Compliant Authorization for Release of Medical Information forms and submit them to the Department of Human Resources within five (5) days of the work-related accident.

C. Reasons for the regulations:

1. Employees seeking medical attention for job-incurred injuries from healthcare providers other than those authorized by the County may have to assume the cost of such treatment. State law requires employers to provide employees injured on the job with a designated medical provider list. Authorization of medical information in connection with an employee's workers' compensation claim offers prompt claims set-up and billing as well as immediate medical evaluation and specialist referrals.

2. Immediate treatment may prevent medical complications from developing.

3. Prompt reporting of the work-related accident will enable the supervisor to make a timely investigation. This investigation might reveal a hazardous condition or work practice which, if not corrected, could lead to more serious injuries.

D. Chiropractic services and other forms of alternative medicine will not be paid unless medical referral is made by the attending physician. Before

any injured employee is allowed to return to work, a written release is required from the attending doctor stating that the employee will be able to assume full working responsibilities and duties. The injured employee must keep the immediate supervisor or department head or elected official and the Department of Human Resources informed of his or her condition. Injured employees who can perform modified job duties may be assigned modified duties temporarily, if available, by the department head or elected official after consultation with the Department of Human Resources.

E. During workers' compensation leave, an employee does not accumulate sick or vacation leave, unless the leave is qualified under the FMLA. While an employee is on workers' compensation leave, with the exception of the first twenty-four (24) hours, the employee may not use sick or vacation leave. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4; Weld County Code Ordinance 2007-11; Weld County Code Ordinance 2008-6)

Sec. 3-8-30. Communicable disease policy.

A. The County strives to be in compliance with all equal opportunity laws, including those involving persons with disabilities. Acquired immunodeficiency syndrome (AIDS) and other AIDS virus-related conditions are disabilities protected by federal law. Any employee or prospective employee with AIDS or human immunodeficiency virus (HIV) shall have every protection made available to disabled persons, including reasonable accommodation. This document does not recommend routine HIV antibody screening for any County employee group.

B. Persons at increased risk for contracting HIV, the virus that causes AIDS, include homosexual and bisexual men, intravenous (IV) drug abusers, persons receiving contaminated blood or blood products, heterosexual contacts of persons with HIV infection, and children born to an infected mother. HIV is transmitted through sexual contact, parenteral exposure to infected blood or blood products, and perinatal transmission from mother to neonate. It cannot be transmitted by sneezing, coughing, using the same utensils and equipment, or by merely being close to an infected person. The nonsexual person-to-person contact that occurs among co-workers and the public in the workplace does not pose a risk for transmission of HIV.

C. It is the intent of the County to employ universal precautions for exposures, meaning that all human blood and certain body fluids are considered potentially infectious. All departments must report any possible exposure to the Department of Human Resources using the procedures outlined elsewhere for workers' compensation reporting. In addition, the departments shall immediately telephone the Department of Human Resources on possible exposures so instructions can be given on medical procedures to follow.

D. All medical information gained by the County about the health status of an employee, including the identity of an employee affected by a communicable disease, shall be confidential. Medical information obtained by the Public Health Officer shall be used according to public health statutes.

E. The County is committed to providing a safe work environment for all employees. Every precaution will be taken to see that the health and safety of employees are not threatened by medical conditions of co-workers or the public.

F. In cases involving a communicable disease, determination of safety in the workplace will be made based on reasonable medical judgments given the state of medical knowledge about the transmission and severity of the disease. Guidance from the Public Health Officer will be taken into account. If a determination is made by the County, after consultation with the Public Health Officer, that a medical condition poses little or no threat to health and safety in the workplace setting, the County is not obligated to make any special accommodations for an employee who refuses to work with an affected co-worker or the public. Employees who refuse to work with an affected co-worker or the public may be disciplined up to, and including, termination.

G. The incidence of serious or life-threatening illnesses that are readily transmissible during interaction in the workplace is low. However, because the presence of a serious disease that is transmitted by airborne droplets (for instance, active TB and measles) can pose a threat to the health and safety of employees or the public, the following responsibilities apply to affected employees, their supervisors, department heads and elected officials.

1. Employee responsibilities. An employee with a serious, easily transmissible disease, such as active TB, has the responsibility to remove himself or herself from the workplace until the infectiousness of the disease has passed or is controlled by medication. If the chance exists that co-workers or members of the public have been exposed to the infection in the workplace, the employee has the responsibility to let his or her supervisor or department head or elected official know about the situation.

2. Supervisor responsibilities. Supervisors should keep the identity of an affected employee confidential. The supervisor shall report information about the exposure to his or her department head or elected official.

3. Department head and elected official responsibilities. A department head or elected official who is told of the presence of an affected employee in his or her department should not reveal the identity of an affected employee to anyone other than the Public Health Officer so that appropriate contact follow-up can be started.

H. Serious or life-threatening illnesses that are caused by blood-borne or sexually transmitted infectious agents are not readily transmissible through interaction in the workplace. These conditions, including AIDS, are transmitted by blood contamination from the bloodstream of one (1) person to the bloodstream of another and by intimate sexual contact. The following responsibilities apply to affected employees, their supervisors, department heads and elected officials.

1. Employee responsibilities. Employees infected with blood-borne or sexually transmitted infectious agents such as HIV do not pose a threat to the health and safety of employees in the workplace. Therefore, they are not required to remove themselves from the workplace or tell their supervisor about their condition.

2. Supervisor responsibilities. Supervisors who find out about such a condition by voluntary disclosure or suspect the presence of such a condition shall not reveal the identity or presence of an affected employee.

3. Department head and elected official responsibilities. Department heads or elected officials who find out about such a condition by voluntary disclosure or disclosure from a supervisor, or suspect the presence of such a condition, shall not reveal the identity or presence of an affected employee, even anonymously, to any County employee or other individual, except:

a. Department heads and elected officials may contact the Public Health Officer to gather information about specific concerns or educational need in their departments and information on support services or referrals. The Department head or elected official will not reveal the identity of the employee to the Public Health Officer.

b. Department heads and elected officials may consult the Department of Human Resources, only with the consent of the affected employee, to gather information about personnel decisions. The department head or elected official will not reveal the identity of the affected employee to the Department of Human Resources unless the employee specifically consents to such identification.

I. When a communicable disease affects the health of an employee to the point where his or her job performance suffers, personnel decisions will be made on the same basis as they would when other serious health problems come to the attention of the supervisor, department head or elected official.

J. The County realizes that certain employees, as a result of their job, are at risk concerning exposure to the HIV, Hepatitis B virus (HBV) and other blood-borne pathogens. The County has chosen to set up guidelines that conform to the OSHA guidelines.

K. The following departments have comprehensive plans specific to their departments on file with the Department of Human Resources: Department of Public Health and Environment, Paramedic Services, Sheriff's Office and Coroner's Office. Comprehensive plans include the following criteria.

1. Exposure determination.

a. A list of all job classifications in which all or some of the employees have occupational exposure.

b. A list of all tasks and procedures in which occupational exposure occurs and that are performed by employees.

2. Plan documentation. Plans should be updated at least annually and whenever necessary to reflect new or modified tasks with occupational exposure.

a. Engineering and workplace controls.

- b. Appropriate personal protective apparatus, including instructions for its use, accessibility and maintenance.
- c. Procedures for a clean and sanitary work site, including decontamination of equipment, handling of regulated waste and handling of contaminated laundry.
- d. Procedure for providing hepatitis B vaccination.
- e. Procedure for post-exposure evaluation and follow-up, including workers' compensation reporting and employee testing.
- f. Procedure for record keeping.
- g. Procedures for training new and current employees, including record keeping, trainer qualifications and content.
- h. Signs and labels to communicate hazards. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-8-40. Medical examinations.

A. Medical qualifications are realistic physical standards to assure that an employee is physically able to perform the duties to the standards set by the County. All employees must meet the medical standards for their specific position. Applicants for a position may be required to take an initial employment medical exam. An employee may be required to take a medical exam as a condition of continued employment if, in the judgment of the department head or elected official, the employee's health appears to be adversely impacting job performance, the assigned duties could be detrimental to the health of the employee or the medical exam is required by state or federal law.

B. The Department of Human Resources will schedule the medical examination as soon as possible once requested by the department head or elected official. An employee may be placed on administrative paid leave pending the medical examination results. All employee medical examinations requested by the County will be paid for by the County. The County will receive the results of the medical examination and will furnish the employee a copy upon request. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-8-50. Recreational activities.

The County does not sponsor any adult recreational teams or activities. Any sports injuries incurred by County employees are considered outside assigned County duties. Therefore, they are not covered by workers' compensation as job-related injuries. (Weld County Code Ordinance 2003-4)

ARTICLE IX

Education and Training

Sec. 3-9-10. Tuition assistance.

A. The County will reimburse an employee for some tuition expenses and lab fees for job-related courses that have been approved in advance. This does not include books, charges for testing out of a class and most associated fees. There is a limit to the amount an employee can be reimbursed each quarter or semester. The employee can contact the Department of Human Resources for the current limit. Funds for this program are limited to the amount budgeted each year by the Board of County Commissioners. Therefore, requests will be considered with priority given to the earliest date received by the Department of Human Resources. Requests must be approved in advance to commit funds for an employee.

B. For an employee to receive such reimbursement, the following conditions must be met:

1. The employee must be a regular full-time or regular part-time employee and must have successfully completed the first six (6) months of the employee's initial review period.
2. The employee must have an approved *Tuition Assistance Request* form prior to enrollment. (Forms are available in the Department of Human Resources.)
3. Termination of employment will cause the employee to forfeit the rights to this assistance.
4. Books, supplies and miscellaneous fees are not covered.
5. The employee must complete the course successfully or, if letter grades are given, with a "C" grade or better.

C. To receive payment, an employee must present the Department of Human Resources with a canceled check or a receipt showing the amount of tuition paid, a grade slip proving successful completion and a copy of the approved *Tuition Assistance Request* form.

D. Should the class attended by the employee be scheduled during normal work hours, it will be at the discretion of the department head or elected official whether time off from work with pay is allowed. In all cases, any time taken off by the employee must be made up weekly or be charged as unpaid leave. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-9-20. Seminars and conferences.

A. If an employee is requested by the County to attend a workshop, seminar, conference or other educational training program, the employee will be reimbursed for the entire cost which includes registration fees, lodging, meals and transportation. Claims for reimbursement should be made in accordance with the policies outlined in Chapter 5, Article IV of this Code.

B. Compensatory time while attending or traveling to a workshop, seminar, conference or other educational training program will be paid according to federal regulations. In the event a department has insufficient budgeted dollars for certain seminars or conferences, the employee and department may negotiate a sharing of the cost of the seminar or conference if agreeable to both the employee and department head or elected official. (Weld County Code Ordinance 2003-4)

ARTICLE X

Pay Practices

Sec. 3-10-10. Salary policy.

A. The County participates in various salary surveys. Salaries are set by the Board of County Commissioners after full consideration is given to:

1. Present pay rates compared to labor market competitors. The competitive job market may vary by job classification or specific jobs.
2. Ability to pay.
3. Benefit and supplemental pay policies.
4. Supply/demand situation for personnel needs.
5. Supply/demand situation in the labor market.
6. Employees expectations.

B. The salaries are established during the budget process annually, to be effective with the January payroll. Once set by the Board of County Commissioners, salary levels and classifications normally are not adjusted during the fiscal year.

C. Once salary levels are adopted, a pay table is distributed annually to all departments in the *Final Budget*. All employees and the public may have access to the pay tables for information. (Weld County Code Ordinance 2003-4)

Sec. 3-10-20. Objectives of the pay system.

The pay system has been developed to provide:

- A. Equity. To assure that all eligible employees have an opportunity to compete for and receive the awards of the system.
- B. Productivity. To establish a system that rewards performance so as to increase productivity.
- C. Competitive compensation. To assure that employees' compensation is competitive within the area.
- D. Management resource. To provide management with a means to administer and accomplish the organizational goals and objectives. (Weld County Code Ordinance 2003-4)

Sec. 3-10-30. Pay system concepts.

The pay system concepts are set forth as follows:

- A. Prevailing wage. To pay individuals the prevailing wage in the job market as determined by salary surveys.
- B. Upward movement. To establish a system that allows for upward movement within it in order to reward employees for their performance.
- C. Downward movement. To establish a system that allows for downward movement within it in order to reduce compensation for nonproductive employees.
- D. Performance appraisal. To provide a standardized tool to measure performance based on pre-determined standards.
- E. Learning curve. The amount of time spent on the job to fully learn the tasks required and function at a proficient level. The County recognizes a learning curve for all County positions. (Weld County Code Ordinance 2003-4)

Sec. 3-10-40. Classification and pay plan.

In accordance with Section 4-2 of the Home Rule Charter, the Board of County Commissioners has adopted a classification and pay plan. Position classification is the organizing of all jobs in the County into groups or classes on the basis of their duties, responsibilities and qualification requirements of skills, knowledge and abilities. Job classifications are a vital element upon which a pay structure is based and administered. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2005-14)

Sec. 3-10-50. Employee type.

The types of employees are listed as follows:

- A. Hourly. Nonexempt employee paid for hours worked.
- B. Exception hourly. Nonexempt employee who is paid a monthly amount based on the average of one hundred seventy-three and thirty-three hundredths (173.33) hours per month. Exceptions, such as leave-without-pay and overtime, are subtracted from or added to the monthly amount.
- C. Salaried. An exempt employee's monthly pay will be based on the average of one hundred seventy-three and thirty-three hundredths (173.33) hours per month. (Weld County Code Ordinance 2003-4)

Sec. 3-10-60. Job descriptions.

County employees are placed in a classification series that identifies the position they are filling. A job description for all positions is available in the Department of Human Resources. The job descriptions provide a broad statement of the class duties, supervision received, supervision exercised, examples of duties, minimum qualifications, education and experience required. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-10-70. Position audit and reclassification.

A. The purpose of the position audits and reclassifications is to ensure consistency of pay structure and to provide consistent procedure for studying and evaluating positions in the County for the purpose of upgrading or downgrading those positions. Position audits for classification will only be a part of the annual budget process and will be considered annually along with other departmental requests, except for a position which can be audited as a result of it being vacated by an employee termination.

B. A department head or elected official may request a special audit if one (1) has not been done for a position within that department for at least one (1) year. A position audit is not meant to judge the performance of the employee in the position. The purpose of the audit is to measure what the employee does.

C. The department head or elected official can initiate a job audit by submitting in writing to the Department of Human Resources the justification for requesting such an audit. This request must be submitted along with the budget package. The request should include the specific changes that have occurred and the significance of these changes.

D. If the reasons for the request are adequate, the Department of Human Resources will respond by providing the department with a current job description and organizational chart. The department head or elected official must then provide the following to the Department of Human Resources:

1. The job description of the position being audited, with the proposed revisions. If there are no revisions, the department head or elected official will indicate so on the copy of the job description.
2. The organizational chart, giving the existing approved reporting inter-relationships and marking in red the proposed changes.
3. A breakdown of the time spent on duties. For a simple example, a clerical position may be broken down as follows: sixty percent (60%) typing, thirty percent (30%) answering the phone and ten percent (10%) spent responding to the public.
4. A list of the additional duties and responsibilities that have been added.
5. A description of the new programs and/or functions in the department that prompted the additional duties or responsibilities. If the department has not added new programs and/or functions, there should be an explanation of why the department's current position classifications are not able to accomplish the same functions under the current classifications.
6. A specification of what inequities, if any, the department head or elected official believes may exist.

E. Upon receipt of this information, a representative from the Department of Human Resources may conduct an inquiry into the facts related to the position. This may include interviews of the department head or elected official, supervisor and/or employee currently in the position.

F. An analysis and recommendation to the Board of County Commissioners will then be made. The Director of Human Resources, department head or elected official and the Director of Finance and Administration will have an opportunity to make comments and recommendations to the Board. The Board of County Commissioners will review this information and make a decision.

G. If any of the above parties disagree with the decision, they may request a work session with the Board. The decision of the Board of County Commissioners at the time of the budget approval is final and may not be appealed through any means. Any approved reclassification shall be effective on the first day of the first payroll period of the new fiscal

year and funded accordingly in the budget. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-10-80. Key elements of pay system.

The key elements of the pay system are as follows:

A. Nine (9) performance levels (entry, qualified, proficient, third-year, fifth-year, seventh-year, tenth-year, thirteenth-year and sixteenth-year proficient). Pay for performance awards merit pay increases to the next pay step to employees who meet or exceed the standards of performance.

B. Performance appraisals to be completed at predetermined time-frames. (Weld County Code Ordinance 2003-4)

Sec. 3-10-90. Pay steps.

Except for the Family Education Network of Weld County (Head Start), pay steps are described as follows:

A. Step 1: Entry Step.

B. Step 2: Qualified Step. Movement to this step from the entry step requires at least six (6) months of satisfactory performance at the entry step.

C. Step 3: Proficient Step. Movement to this step from the qualified step requires at least six (6) months of satisfactory performance at the qualified step.

D. Step 4: Third-Year Proficient Step. Persons who have completed three (3) years in the same classification and have demonstrated sustained satisfactory performance at the proficient step as recorded through the appraisal system. Movement to this step from the proficient step requires at least two (2) years of satisfactory performance at the proficient step.

E. Step 5: Fifth-Year Proficient Step. Persons who have completed five (5) years in the same classification and have demonstrated sustained satisfactory performance at the proficient step as recorded through the appraisal system. Movement to this step from the third-year proficient step requires at least two (2) years of satisfactory performance at the third-year proficient step.

F. Step 6: Seventh-Year Proficient Step. Persons who have completed seven (7) years in the same classification and have demonstrated sustained satisfactory performance at the proficient step as recorded through the appraisal system. Movement to this step from the fifth-year proficient step requires at least two (2) years of satisfactory performance at the fifth-year proficient step.

G. Step 7: Tenth-Year Proficient Step. Persons who have completed ten (10) years in the same classification and have demonstrated sustained satisfactory performance at the proficient step as recorded through the appraisal system. Movement to this step from the seventh-year proficient step requires at least three (3) years of satisfactory performance at the seventh-year proficient step.

H. Step 8: Thirteenth-Year Proficient Step. Persons who have completed thirteen (13) years in the same classification and have demonstrated sustained satisfactory performance at the proficient step as recorded through the appraisal system. Movement to this step from the tenth-year proficient step requires at least three (3) years of satisfactory performance at the tenth-year proficient step.

I. Step 9: Sixteenth-Year Proficient Step. Persons who have completed sixteen (16) years in the same classification and have demonstrated sustained satisfactory performance at the proficient step as recorded through the appraisal system. Movement to this step from the thirteenth-year proficient step requires at least three (3) years of satisfactory performance at the thirteenth-year proficient step.

years of satisfactory performance at the thirteenth-year proficient step. (FENWC employees are excluded.)

NOTE: Progression up the pay steps is not automatic. A step increase can be delayed until the employee's performance is satisfactory, in the opinion of the department head or elected official. The above pay steps would not correspond to time in classification if the incumbent was promoted into a higher step due to minimum five-percent increase for promotions or initially hired at the qualified step, if a position was reclassified or if a pay step was delayed because of performance. Time would then be determined by length of time in a pay step. (Weld County Code Ordinance 2003-4; (Weld County Code Ordinance 2005-14; Weld County Code Ordinance 2007-4; Weld County Code Ordinance 2009-1)

Sec. 3-10-100. Repealed. (Weld County Code Ordinance 2009-1)

Sec. 3-10-110. Family Education Network of Weld County (Head Start).

Employees working for the Family Education Network of Weld County (Head Start) shall be subject to the guidelines set forth by the Head Start Director and the Director of Human Services. Weld County Code Ordinance 2007-4)

Sec. 3-10-120. Mechanics of the pay system.

A. New hires will begin at the entry level step for the classification, with one (1) exception. An applicant may be hired at the qualified (second) step if the applicant exceeds the minimum standards for the classification as established by the class description and specifications. The department head or elected official must submit the justification to the Department of Human Resources to request approval to hire at the qualified level. This request must document the fact that the applicant's training and experience warrants the higher pay level. No commitment to hire at other than the entry level should be made to an applicant without written approval from the Department of Human Resources. The practice of hiring at other than entry level is limited.

B. Performance evaluation dates and pay step dates should be made to coincide with pay periods. That is, for most employees it would be the sixteenth of the month. For the Department of Social Services employees it would be the first of the month.

C. Promotions and reclassifications.

1. When a County employee is promoted to a higher level classification in the same classification series, the employee will be placed at the entry level step for the classification. Promotions will ensure a minimum of five percent (5%) in pay increase. In the event the promotion in the classification series is less than five percent (5%), the employee shall be placed at the step which provides a minimum increase of five percent (5%). A six-month promotional review period shall exist for the employee in all cases of promotion.

2. Employees who are promoted and, due to the five-percent-increase rule, are placed outside of the current pay table range for that classification will receive only the initial pay increase of five percent (5%). They will then be placed in the grandfathered category and treated as such.

3. When a position is determined to be misclassified and is changed to a higher classification, the incumbent employee must qualify for the higher level position within one (1) year. The incumbent employee will be placed at the entry level step unless the former pay grade in the lower class is less than a five-percent increase. In the event the entry level is less than a five-percent pay increase, the person will be placed at a step providing a five-percent minimum increase.

4. A promoted employee entering the classification at higher than the entry level due to the minimum pay increase requirement of five percent (5%) will still have the promotional review period. Pay movement will be based upon the normal movement to the higher step. For example, an employee placed at the proficient step initially will not move to the third-year proficient step until the employee has been at the proficient step for two (2) years.

D. Employees that transfer to new positions and/or departments.

1. In all cases, transferring employees are under a six-month review period. If a County employee takes a new position in a class series other than his or her current series, the employee will be hired at the entry level step of the new classification. (Example: Office Technician to Deputy Sheriff).

2. In the case of a lateral transfer, meaning the person transfers to the same classification into a different department, the employee shall retain the current pay step.

3. In the case of a transfer into a different department, the minimum promotional rule of five percent (5%) described will not apply unless it is within the same career ladder. This determination is made by the Director of Human Resources.

E. Demotions and loss of pay include dropping to a lower level classification and/or reduction to a lower pay step within the same classification.

1. In the case of a voluntary demotion to a lower classification in the same class series by an employee, the department head or elected official has the discretion to place the individual within the pay range but may not place the pay of the individual beyond the maximum for that pay range.

2. In the case of an involuntary demotion, the department head and/or elected official has the discretion to place the individual within the pay range but may not place the pay of the individual beyond the maximum for that pay range.

3. If at any time the employee's performance drops below the performance standards of the classification or position, the employee may be placed on a special review period and reduced in pay to the next lower step or a reduction of three percent (3%). If improvement is made at the conclusion of the special review period, the employee may be returned to the pay level and pay step occupied prior to the reduction, along with the previous step date. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-10-130. Payroll deductions.

Payroll deductions from the compensation of any employee shall be limited to the following:

- A. Deductions required by federal or state law;
- B. Judicial orders, liens and garnishments;
- C. Deductions for employee benefits (as defined in this Chapter) and retirement contributions; and
- D. Contributions Pay to United Way authorized by the employee on an annual basis. (Weld County Code Ordinance 2007-4)

ARTICLE XI

Performance Evaluations

Sec. 3-11-10. Purpose of performance evaluations.

Performance evaluations are management judgments about the behavior, demeanor, conduct, department, effectiveness and other relevant factors

of employees. Assignments, advancements, rewards, discipline, utilization and motivation all depend ultimately on management judgments of employee performance. The objectives of evaluations are:

A. Clarification of what is expected. That is, developing standards of satisfactory performance and setting forth what quality and quantity of work of a given type is acceptable and adequate for pursuing the functions of the organization.

B. Fortifying and improving employee performance. By identifying strong and weak points in individual achievement, recording these as objectively as possible and providing constructive counsel to each worker.

C. Refinement and validation of personnel techniques. Serving as a check on qualification requirements, examinations, placement techniques, training needs or instances of maladjustment.

D. Establishment of an objective base for personnel actions. That is, in selection for placement and promotion, in awarding salary advancements within a given level, in making other awards, in determining the order of retention at times of staff reduction and in otherwise recognizing superior or inferior service.

E. Notification of deficient behavior or work performance. (Weld County Code Ordinance 2003-4)

Sec. 3-11-20. Performance evaluation process.

A. Six (6) months from date of hire. All employees will receive a six-month evaluation, whether they enter County employment at the entry or qualified level. Based on the evaluation of the employee against predetermined standards, the department head or elected official will indicate whether the employee will move to the next pay step. A performance evaluation with a below-standard rating during the initial review period can result in termination of employment.

B. Twelve (12) months from date of hire. Unless the initial review period is extended, this evaluation will determine whether an employee will be removed from the initial review status and become a *regular* employee. An overall appraisal rating of "meets standards" or "above standards" will move the employee into regular status.

C. Annually, after completion of the initial review period, employees will receive performance evaluations every twelve (12) months.

D. Special. Special evaluations can be done for commendation or reprimand at the department head's or elected official's discretion. An Employee Counseling Form may be used for counseling employees for events occurring between performance evaluation times. (Weld County Code Ordinance 2009-01)

Sec. 3-11-30. Performance evaluation review or appeal.

A. When the employee disagrees with the evaluation as written, the employee will so indicate by writing "Disagree" in the employee comments section. The rater will then give a copy of the evaluation to the employee with a written note stating the date that written comments must be turned in to the reviewing authority. The original copy of the evaluation will then be sent to the reviewing authority with a copy of the note indicating the date that written comments are due to the reviewing authority.

B. When the reviewing authority receives the written comments, he or she will evaluate all pertinent information available. The reviewing authority may concur with the evaluation as written or not concur, based on the employee's comments and his

or her observation, etc. The reviewing authority may then change any rating by initialing and changing the rating to the appropriate rating. In the comment section, the reviewing authority shall explain why the changes, if any, were made.

C. The reviewing authority will review the evaluation with the employee. If changes were made, the employee will initial and date the comments beside the signature section of the reviewing authority. The employee should indicate his or her concurrence or nonconcurrence with the reviewing authority's rating. The reviewing authority's review is final. The employee may not appeal the matter further, and the grievance procedures described in Article IV of this Chapter do not apply. (Weld County Code Ordinance 2003-4)

ARTICLE XII

Payroll

Sec. 3-12-10. Payroll information.

A. Payday for all employees will be the last working day of the month. If payday falls on a holiday, employees will be paid the last regularly scheduled workday before the holiday. Pay periods are from the sixteenth of the month through the fifteenth of the following month. The pay period for the Department of Social Services employees is the first day of the month through the last day of the month.

B. Payment is made by automatic deposit directly to the banking institution of the employee's choice. Deposits can be to savings or checking accounts. Forms are available in the Department of Human Resources to establish or change account routing to banking institutions. A statement of monthly earnings will be provided to each employee prior to the end of month.

C. Changes in personal data (e.g., marital status, number of dependents, address, telephone number, benefit coverage and work authorization status) may affect the employee's pay or employment. Therefore,

it is most important that an employee report appropriate changes as soon as possible.

D. A garnishment is a court order allowing for creditors to collect part of an employee's pay directly from the County. The County is compelled by law to administer the court-ordered garnishment. Government levies and child support orders will be treated in the same manner as garnishments.

E. In the event an employee's wages are garnished, a representative from the Department of Accounting will provide written notification to the employee being garnished and will explain the details of the garnishment and how it affects wages. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-12-20. Mandatory payroll deductions.

A. Federal income tax. The federal government requires the County to withhold a certain percentage of an employee's pay to enable the employee to pay federal taxes due each year. The percentage amount withheld is based on the amount of wages and the number of exemptions claimed, as indicated on the employee's W-4 form. The number of exemptions claimed may be changed by the employee as necessary. The employee shall contact the Department of Human Resources regarding any changes.

B. State income tax. The State of Colorado requires mandatory deduction for state income tax. The amount taken out of an employee's pay is based on wages and the number of exemptions claimed on the employee's W-4 form.

C. Federal Insurance Contributions Act (FICA). This program provides retirement, disability and survivor benefits. The amount deducted from an employee's pay is based on total wages earned, and this amount is matched dollar-for-dollar by the County. County employees are required to pay Social Security and Disability tax and Medicare (Hospital Insurance) tax. PERA members pay only Medicare.

D. Retirement contributions. The County provides retirement benefits for regular County employees through PERA or the Weld County Retirement Plan. Plan descriptions are as follows:

1. PERA. The District Attorney and all employees of the Department of Public Health and Environment are required to belong to the Public Employees Retirement Association (PERA). Employee and County contributions are as determined by PERA through state legislation. Member employees should refer to the pamphlet issued by PERA for details of the plan. Employees on PERA are required to pay Medicare (Hospital Insurance) tax.

2. Weld County Retirement Plan. All full-time, regular County employees, except those on PERA, are required to participate in the Weld County Retirement Plan. The employee must contribute six percent (6%) of gross earnings each month. Employee contributions are deferred from state and federal taxable income. The County matches all regular contributions. Member employees should refer to the booklet provided by the Weld County Retirement Board for details of the plan. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

Sec. 3-12-30. Procedure to correct payroll errors.

A. When an error in pay is identified by either the department head or elected official or the employee, notification should be made to the Department of Human Resources immediately so corrections may be made. It is the responsibility of the Department Human Resources, the Department of Accounting, the department head or elected official and the employee to review pay information monthly to assure accuracy and to report errors in a timely manner.

B. If any error results in an underpayment of one hundred dollars (\$100.00) or more, a separate check will be processed for the additional wages. If the

underpayment is less than one hundred dollars (\$100.00), the additional wages will be processed in the next monthly scheduled payroll. All overpayments discovered will result in a collection action for the total amount. (Weld County Code Ordinance 2003-4; Weld County Code Ordinance 2007-4)

ARTICLE XIII

Implementation of Federal Transit Administration Regulations on Drug Use and Alcohol Misuse

Sec. 3-13-10. Overview.

A. This policy is designed to enhance productivity and safety and to foster excellence by maintaining a safe and productive environment for employees. The County maintains a strong commitment to a drug-free and an alcohol-free work environment and has adopted this policy to provide guidance to supervisors and employees in dealing with drug use and alcohol misuse. This policy is applicable only to County employees subject to Federal Transit Administration regulations on drug use and alcohol misuse. Such regulations are found in 49 CFR, Parts 40 and 655, as amended, and are referred to herein and in the appendix hereto as the "FTA regulations." This policy will be kept current with the latest FTA regulations. **The County reserves the right to conduct drug and/or alcohol tests of applicants for employment and current employees in accordance with the provisions of any other state and/or federal law.** This policy first became effective by resolution of the Board of County Commissioners dated September 11, 1996.

B. To further our commitment to providing a safe, drug-free and alcohol-free environment, the County has adopted the following programs and procedures.

1. An employee and supervisor education and training program regarding drug and alcohol misuse and abuse.
2. A drug and alcohol testing program for employees and applicants for employment in safety-sensitive positions.
3. A program for evaluating employees who violate the drug use and alcohol misuse policy.
4. Administrative procedures for record keeping, reporting, releasing information and certifying compliance with the FTA regulations.

C. The County is dedicated to assuring the fair and equitable application of this policy. All supervisors and managers are required to use and apply all aspects of this policy in an unbiased and impartial manner, and any supervisor or manager who knowingly disregards the requirements of this policy, or who is found to be deliberately misusing the policy in regard to subordinates, **shall be subject to disciplinary action, up to and including termination, pursuant to this Code.**

D. Throughout this Article 13, policy not mandated by FTA regulations is set forth in **bold** type. (Weld County Code Ordinance 2003-3)

Sec. 3-13-20. Employee categories subject to testing.

A. Under FTA regulations, all employees who perform safety-sensitive functions and all applicants for, and incumbent employees seeking transfer to, safety-sensitive positions are included in this drug and alcohol testing program. Participation in this drug and alcohol testing program is a condition of employment for each safety-sensitive employee.

B. The Federal Transit Administration defines the term *safety-sensitive* to apply to all employees in a position to perform the following functions.

1. Operate revenue service vehicles, whether or not the vehicle is in revenue service.
2. Operate nonrevenue service vehicles that require drivers to hold a Commercial Drivers License ("CDL").

3. Control dispatch or movement of service vehicles.
4. Maintain (including repairs, overhaul and rebuilding) revenue service vehicles or equipment used in revenue service.
5. Carry a firearm for security purposes.
6. Perform as volunteers who drive vehicles which require having a CDL and/or perform safety-sensitive functions and receive remuneration in excess of actual expenses.

C. The following positions at the Department of Human Services and Fleet Maintenance have been determined by the County to meet the Federal Transit Administration definition:

1. All mini-bus drivers.
2. All maintenance personnel.
3. All dispatchers.

D. This list is subject to amendment at any time. The County has reviewed duties performed by all employees to determine safety-sensitive positions in accordance with the above definition, and all new job classifications will be analyzed for safety-sensitive duties. Supervisors who perform or who are likely to perform safety-sensitive functions are also considered safety-sensitive employees and will be included in the drug and alcohol testing program applicable to all safety-sensitive employees. (Weld County Code Ordinance 2003-3)

Sec. 3-13-30. Prohibited conduct.

A. Alcohol.

1. Employees who perform safety-sensitive functions must not consume alcohol as follows:

- a. During specified on-call hours. (An on-call employee will be allowed to acknowledge, at the time he or she is called to duty, that he or she has used alcohol and to indicate whether he or she believes he or she is capable of performing the safety-sensitive function. If the employee believes that he or she is not capable of performing his or her safety-sensitive function, he or she shall be excused from doing so. If, however, the employee believes he or she is capable of performing a safety-sensitive function, the employee will undergo an alcohol test and will be permitted to perform a safety-sensitive function if the alcohol concentration level measures less than 0.02. If the employee's alcohol concentration measures greater than 0.02 but less than 0.04, the employee will be allowed to perform a safety-sensitive function only if he or she is retested and his or her alcohol concentration measures less than 0.02. If the employee is not retested, he or she must wait a minimum of eight (8) hours before performing a safety-sensitive function.)

- b. While performing a safety-sensitive function.

- c. Within four (4) hours prior to performing a safety-sensitive function.

- d. For up to eight (8) hours following an accident, or until the employee undergoes a post-accident test, whichever occurs first.

2. Employees who perform safety-sensitive functions are prohibited from reporting for duty or remaining on duty while having an alcohol concentration of 0.02 or greater. As referred to in this policy, *alcohol* means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol. FTA regulations currently prohibit a covered employee from reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. (An employee found to have an alcohol concentration greater than 0.02 but less than 0.04 may not perform any safety-sensitive function until the employee's alcohol concentration measures less than

0.02 or until the start of the employee's next regularly scheduled duty period to begin a minimum of eight (8) hours following administration of the test.)

B. Controlled substances.

1. Employees who perform a safety-sensitive function are strictly prohibited from using or ingesting prohibited drugs at any time, except when the use is pursuant to the instruction of a physician who has advised the employee that the substance does not affect the employee's ability to safely perform his or her job. **Any employees taking such a substance at a physician's instruction must inform the County of such drug use. The County retains the right to verify the use with the employee's physician.** Manufacturing, distributing, dispensing, possessing or using controlled substances in the work place is prohibited, pursuant to the Drug-Free Workplace Act. **Pursuant to County policy, any employee who manufactures, distributes, dispenses, processes, sells, attempts to sell or arranges to sell a controlled substance to any other person, whether on or off County property, whether on or off duty, shall be subject to discipline up to and including discharge.**

2. As referred to in this policy, a *controlled substance* or *prohibited drug* means marijuana, cocaine, opiates, amphetamines or phencyclidine. FTA regulations currently prohibit the performance of safety-sensitive functions when a prohibited level of any of five (5) specified drugs is detectable in the employee's urine. (Weld County Code Ordinance 2003-3)

Sec. 3-13-40. Drug and alcohol testing program.

A. Safety-sensitive employees will be subject to testing pursuant to FTA regulations.

B. Testing of non-safety-sensitive employees, applicants for non-safety-sensitive positions and safety-sensitive employees over and above the requirements of FTA regulations will be performed pursuant to separate authority of the County. Any testing procedures utilized by the County will conform with applicable federal and state requirements.

C. Under County policy, a refusal to take a test will constitute the equivalent of a positive drug test or an alcohol test of 0.04 or greater. Therefore, refusal by an employee to submit to required testing or failure to pass a drug or alcohol test will lead to disciplinary action, up to and including termination, pursuant to this Code. Any employee who refuses to submit to a required drug or alcohol test will not be permitted to continue to perform safety-sensitive functions. Refusal to take a test includes, but is not limited to, any of the following:

1. Outright refusal to submit to a test.
2. Failure to provide sufficient quantities of saliva, breath or urine to be tested without a valid medical explanation.
3. Engaging in conduct that clearly obstructs the testing process (including, but not limited to, refusing to sign the drug testing chain of custody form or to sign "Step #2" on the alcohol testing form, failing to remain at the testing site until the testing process is complete, or failing to permit the observation or monitoring of the provision of a specimen when directed to do so).
4. Tampering with or attempting to adulterate the specimen or collection procedure.
5. Failing to appear for any test within a reasonable time after being directed to do so.
6. Failing or declining to take a second test after being directed to do so.
7. Failing to undergo a medical examination or evaluation as directed by the Medical Review Officer as part of the verification process, or as directed by the Designated Employer Representative for the County.

8. Leaving the scene of an accident without a valid reason before tests are conducted without notifying the County of where the employee can be reached for testing.

D. Pursuant to County policy, any employee who tampers with, falsifies, substitutes or alters a urine sample, saliva or breath test, or who attempts to do so, shall be subject to discipline up to and including discharge.

E. The County will adhere to all required standards of confidentiality. Testing records and results will be released only to those authorized to receive such information. Safety-sensitive employees are entitled, upon written request, to obtain copies of their drug and alcohol testing records, to provide information to dispute the results and to have access to any pertinent records such as equipment calibration records and laboratory certifications. (Weld County Code Ordinance 2003-3)

Sec. 3-13-50. Testing for controlled substances.

A. Drug testing of safety-sensitive employees authorized by FTA regulations is limited to the following substances.

<i>Drug Name - Metabolite</i>	<i>Screening Cut-Off</i>	<i>Confirmation Cut-Off</i>
Marijuana - Delta 9 THC	50 NG/ml	15 NG/ml
Cocaine - Benzoyl ecgonine	300 NG/ml	150 NG/ml
Amphetamines	1000 NG/ml	500 NG/ml
Opiates Morphine/Codeine	2000 NG/ml	2000 NG/ml
PCP - Phencyclidine	25 NG/ml	25 NG/ml

B. While drug testing by the County normally will be limited to the five (5) substances listed above, the County reserves the right, pursuant to its policy and its own authority, to require employees to provide separate specimens for testing for other controlled substances, as permitted by law. The County reserves the right, pursuant to its policy and its own authority, as permitted by law, to perform drug tests of applicants or non-safety-sensitive employees using the same procedures FTA requires for testing safety-sensitive employees.

C. Any employee who tests positive for opiates who neither admits to an unauthorized use of an opiate nor can provide a valid medical explanation or prescription for the opiate present in his or her urine sample shall be required to undergo a physical examination with a physician (M.D.). The purpose of the exam is to determine if the donor is exhibiting any physical signs of any opiate use, abuse or withdrawal that would provide the required clinical evidence necessary for the Medical Review Officer to report the test as a positive test result. If no clinical evidence is detected, the result is verified negative by the Medical Review Officer and reported to the County as a negative test result. The employee shall be required to pay for any such exam by the physician (M.D.). (Weld County Code Ordinance 2003-3)

Sec. 3-13-60. Testing for alcohol.

Alcohol testing of safety-sensitive employees will be performed pursuant to FTA regulations. **The County reserves the right, pursuant to its policy and under its own authority, as permitted by law, to perform alcohol tests of non-safety-sensitive employees using the same procedures FTA requires for testing safety-sensitive employees.** (Weld County Code Ordinance 2003-3)

Sec. 3-13-70. Testing procedures.

A. The County will select an appropriate site for the administration of drug and alcohol tests which meets the requirements specified by the U.S. Department of Transportation. **Pursuant to County policy, drug and alcohol testing will be conducted off County premises. Normally, administration of alcohol tests will be performed concurrently with urine collections. The County reserves the right,**

however, to administer alcohol tests separately from urine collections and to administer alcohol tests and/or urine collections on County premises.

B. All testing for the presence of illegal drugs or alcohol misuse will protect the employee and the integrity of the drug testing process, safeguard the validity of the test results and ensure that the test results are attributed to the correct employee. This will be accomplished by conducting all drug and alcohol testing in accordance with the procedures set forth in 49 CFR Parts 40 and 655, as amended. The integrity of the drug testing process is ensured through the use of a picture identification of the employee, a Federal Drug Custody and Control Form with unique specimen identification number completed by a trained collection site person who ensures that such Custody and Control Form is completed correctly and signed and certified by the donor, and the collection of split sample specimens that are sealed and initialed by the donor. The integrity of the alcohol testing process is ensured by the use of picture identification of the employee and of an approved evidence breath testing device that displays and prints unique sequential numbers and is capable of producing three (3) copies of the test result. The test is administered by a certified Breath Alcohol Technician. The Breath Alcohol Technician completes a Federal Breath Alcohol Testing form and ensures that it is signed by the donor.

C. The name, address and telephone number of the U.S. Department of Health and Human Services Certified Laboratory being used by the County for the implementation of this Policy is listed in Appendix 3-A to this Chapter. (Weld County Code Ordinance 2003-3)

Sec. 3-13-80. Role of Medical Review Officer.

A. All drug test results will be reviewed first by a specially trained physician serving as Medical Review Officer. The Medical Review Officer will notify the County directly if an employee's drug test result is verified negative. If the drug test result is verified positive, the Medical Review Officer will contact the employee to discuss the test, to determine if the positive result is valid and to notify the employee that he or she has seventy-two (72) hours to request a test of the split specimen. (See the section entitled "Retesting at the Employee's Request" for a detailed description of split test procedures. Upon a request by the employee that a split specimen test occur, the Medical Review Officer is required to request, in writing, that the laboratory provide the split specimen to another U.S. Department of Health and Human Services certified laboratory for analysis.)

B. The County will only be informed that an individual has tested positive or negative. The specific drug involved may be disclosed to the County by the Medical Review Officer. The levels detected will not be disclosed by the Medical Review Officer to the County. The name, address and telephone number of the Medical Review Officer being used by the County are listed in Appendix 3-A attached to this Chapter. (Weld County Code Ordinance 2003-3)

Sec. 3-13-90. Role of Substance Abuse Professional.

A. All safety-sensitive employees with a verified positive drug test result or a confirmed alcohol test result of 0.04 or greater, including those who have been terminated, and applicants for safety-sensitive positions with positive pre-employment drug tests, shall be referred for evaluation by a Substance Abuse Professional. Such referral shall consist of providing the employee with a listing of Substance Abuse Professionals readily available, including their addresses and telephone numbers. If the employee's eventual return to duty is permitted under this policy, the Substance Abuse Professional shall prescribe a written education and/or treatment program (with a copy forwarded to the County) which the employee must successfully complete or continue to follow in order to return to work. This education and/or treatment program may include referral of the employee by the Substance Abuse Professional to an education and/or treatment provider that IS NOT a part of the Substance Abuse Professional's private practice or to a person or organization from which the Substance Abuse Professional receives remuneration or has a

financial interest. Neither the employee nor the County may seek a second Substance Abuse Professional's evaluation if the employee has already been evaluated by a qualified Substance Abuse Professional.

B. Safety-sensitive employees permitted to return to work following a positive test will be referred for re-evaluation by the Substance Abuse Professional to determine whether the employee has complied with the Substance Abuse Professional's recommendations. After that evaluation and the successful completion of a return-to-duty test, the Substance Abuse Professional shall recommend in writing to the County the number and frequency of follow-up alcohol and/or drug tests to be administered following the employee's return to duty. The follow-up testing shall consist of at least six (6) tests in the first twelve (12) months following the employee's return to duty. The Substance Abuse Professional shall recommend whether the employee should be subject to both drug and alcohol follow-up tests. The name, address and telephone number of the Substance Abuse Professional being used by the County are listed in Appendix 3-A to this Chapter.

C. The Substance Abuse Professional providing services must be a licensed physician (Medical Doctor or Doctor of Osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor (certified by the NAADAC or the ICRC) and has knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol disorders. The Substance Abuse Professional must follow the procedures as set forth in 49 CFR Part 40.

D. Pursuant to County policy, all costs of Substance Abuse Professional evaluations and services must be paid by the employee. (Weld County Code Ordinance 2003-3)

Sec. 3-13-100. Employee assistance program.

The County will assist employees who test positive by providing information about treatment providers and programs to help the employees resolve their problems with drugs or alcohol. (Weld County Code Ordinance 2003-3)

Sec. 3-13-110. Types of testing.

The County will perform the following types of drug and alcohol testing.

- A. Pre-employment testing.
- B. Reasonable suspicion testing.
- C. Post-accident testing.
- D. Random testing.
- E. Return-to-duty testing.
- F. Follow-up testing. (Weld County Code Ordinance 2003-3)

Sec. 3-13-120. Pre-employment testing.

A. All applicants for employment in, and incumbent employees seeking transfer to, safety-sensitive positions will be informed in writing of the federally mandated testing requirements and will undergo a pre-employment drug test. The County will not hire an applicant for, or transfer an employee to, a safety-sensitive position unless the result of the applicant's or employee's drug test is negative. If the drug test is canceled, the applicant for employment must retake and pass a drug test before performing safety-sensitive duties. If a safety-sensitive employee has been off work for more than ninety (90) days and has not remained in the random pool, he or she must pass a pre-employment drug test before returning to safety-sensitive duties.

B. Consequences of positive test result. A positive pre-employment drug test shall be considered sufficient grounds to disqualify the applicant or incumbent employee from employment with the County in a safety-sensitive position. **Pursuant to County policy, an incumbent employee whose drug test result is positive will be subject to the same consequences as an employee whose random**

drug test was positive. An applicant whose drug test is positive shall be referred for evaluation by a Substance Abuse Professional. Any treatment program prescribed by the Substance Abuse Professional shall be paid for by the applicant and must be completed to the satisfaction of the Substance Abuse Professional in order for the applicant to be eligible for reconsideration upon passing a second pre-employment test. If otherwise qualified, an individual with permanent or long-term disabilities that directly render him or her unable to provide an adequate urine specimen will be able to perform safety-sensitive duties despite his or her inability to provide urine during a pre-employment drug test. The Medical Review Officer will determine long-term inability to provide urine by medical examination and consultation with the employee's physician.

C. The County will not assign an applicant or incumbent employee who has refused to take or failed a pre-employment drug test to a safety-sensitive position. If such an applicant or employee later applies for a safety-sensitive position, the County will administer another pre-employment drug test. **If the employee or applicant passes the second pre-employment test, the County may, in its sole discretion, assign and/or hire the employee or applicant to work in a safety-sensitive position.** (Weld County Code Ordinance 2003-3)

Sec. 3-13-130. Reasonable suspicion testing.

A. Employees who perform safety-sensitive functions will be required to submit to a drug or alcohol test when the County has a reasonable suspicion that the employee has used a prohibited drug or misused alcohol. Reasonable suspicion is established if a supervisor trained in the facts, circumstances, physical evidence, physical signs and symptoms, or patterns of performance and/or behavior that are associated with alcohol misuse and drug use, reasonably concludes, based on his or her observations, that the employee has used drugs or misused alcohol. The determination, pursuant to this Code, that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. Any supervisor making such observations must document them.

B. Weld County will direct an employee to undergo reasonable suspicion testing for alcohol only if such observations are made during, just preceding or just after the period of the workday that the employee is required to comply with the employee alcohol use prohibitions. Any supervisor making the decision to require a reasonable suspicion test cannot act as the Screening Test Technician or Breath Alcohol Technician for that test. The alcohol test may be administered only just before, just after or during the period the employee is to perform a safety-sensitive function. **Additionally, a reasonable suspicion test for alcohol must be performed within eight (8) hours following a determination, pursuant to this Code, that reasonable suspicion to test exists. If a reasonable suspicion test is not performed within two (2) hours after such a determination, pursuant to this Code, the County will prepare and maintain a record stating the reasons the test was not promptly administered.** No employee suspected of alcohol misuse, as shown by the behavioral, speech or performance indicators of alcohol misuse, may perform or continue to perform safety-sensitive functions until an alcohol test is administered evidencing a blood alcohol concentration of less than 0.02.

C. **An employee who undergoes reasonable suspicion testing will be immediately removed from service pending the test results on a status of "administrative leave with pay." The employee shall be escorted to the testing site by his or her supervisor or another County representative. If the test results are negative, the employee will be returned to work and paid for any time lost.**

D. Consequences of positive test result. **Pursuant to County policy, if the reasonable suspicion drug or alcohol test result is positive, the employee will be removed from the safety-sensitive position on a status of "leave without pay" and will be subject to discipline, up to and including termination, pursuant to this Code, as determined by the County. For the duration of the leave without pay, the employee cannot utilize any accrued sick or vacation leave.** At a minimum, the employee shall be subject to the same consequences applied to employees following a positive random test. If the employee is not terminated, the employee shall be subject to the same requirements regarding assessment, rehabilitation, return-to-duty and follow-up testing applied to employees following a positive random test. (Weld County Code Ordinance 2003-3)

Sec. 3-13-140. Post-accident testing.

A. Tests for the use of prohibited drugs and misuse of alcohol will be administered after certain mass transit accidents. (Pursuant to FTA regulations, and for purposes of this policy only, an *accident* is defined as an occurrence associated with the operation of a vehicle in which: (1) an individual dies; (2) an individual suffers bodily injury and immediately receives medical treatment away from the scene of an accident; (3) the mass transit vehicle involved is a bus, electric bus, van or automobile in which one (1) or more vehicles incurs disabling damage as a result of the occurrence and is transported away from the scene by a tow truck or other vehicle ("disabling damage" is damage which precludes the departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs); or (4) the mass transit vehicle involved is a rail car, trolley car, trolley bus or vessel and is removed from revenue service.) Post-accident testing requirements differ depending on whether the accident question involved loss of life. The decision-making process of why the accident does or does not fall under FTA post-accident drug and alcohol testing criteria must be documented.

B. Testing after fatal accidents. Each surviving employee operating the mass transit vehicle at the time of the accident must be tested. Additionally, safety-sensitive employees whose performance could have contributed to the accident must be tested. This includes, for example, maintenance personnel, dispatchers and controllers. The decision regarding whether an employee's performance could have contributed to the accident will be made in the sole discretion of the County using the best information available at the time of the decision.

C. Testing after non-fatal accidents. Each employee operating the mass transit vehicle at the time of the accident must be tested unless the County determines, using the best information available at the time of the decision, that the employee's performance can be completely discounted as a contributing factor to the accident. Any other employee performing a safety-sensitive function whose performance could have contributed to the accident shall be tested. **The decision regarding whether an employee's performance could have contributed to the accident will be made in the sole discretion of the County using the best information available at the time of the decision.** Such decision must be documented in detail. If an employee can be immediately discounted as contributing to the accident, based upon the best information available at the time of the decision as a contributing factor in a nonfatal accident, the employee does not have to be tested, but the County must document the reasons why the employee was discounted.

D. Employees and supervisors should follow the following steps in a post-accident situation.

1. Treat injuries first.
2. Cooperate with local law enforcement officers.
3. Explain to employees the need for testing.
4. Conduct tests promptly.
5. Collect accident documentation promptly.

E. When post-accident tests are performed, they will be conducted as soon as possible following the accident. Drug tests must be performed within thirty-two (32) hours and alcohol tests within eight (8) hours following an accident. An employee subject to post-accident testing must refrain from consuming alcohol for eight (8) hours following the accident or until he or she submits to an alcohol test, whichever comes first. If the employee has not submitted to an alcohol test within two (2) hours of the accident, the County will prepare and maintain on file a record stating the reason that the test was not administered promptly, but will continue to attempt to alcohol test up to eight (8) hours after the accident. If the alcohol test is not administered within eight (8) hours after the accident, the County will cease efforts to administer the test and will maintain the same documents. If the drug test is not administered within thirty-two (32) hours, the County will cease efforts to test for drugs and will prepare and maintain the same type of record.

F. These testing requirements will not delay necessary medical attention for injured persons, nor will they prohibit an employee who was performing a safety-sensitive function from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care. Employees performing a safety-sensitive function, however, must remain readily available for testing for thirty-two (32) hours. This means the employee must ensure that the County knows the employee's location for at least a thirty-two-hour period following an accident or until post-accident drug and alcohol tests have been completed. An employee who is not available for testing will be considered to have refused to submit to testing unless his or her unavailability is attributable to efforts to obtain assistance in responding to the accident or obtaining necessary emergency medical care. Employees will be provided with necessary post-accident information, procedures and instructions prior to operating a commercial motor vehicle so they will be able to comply with the federal regulations.

G. The results of a blood, urine or breath test conducted by federal, state or local officials shall be considered to meet the requirements of this Section, provided that such test conforms to the applicable federal, state or local testing requirements, and that the test results are obtained by the County.

H. Consequences of positive test result. **Pursuant to County policy, if the result of either test is positive, the employee will be removed from his or her safety-sensitive position on a status of "leave without pay" and will be subject to discipline, up to and including termination, pursuant to this Code as determined by the County. For the duration of the leave without pay, the employee cannot utilize any accrued sick or vacation leave.** At a minimum, the employee shall be subject to the same consequences applied to employees following a positive random drug or alcohol test. If the employee is not terminated, the employee shall, at a minimum, be subject to the same requirements regarding assessment, rehabilitation, return-to-duty and follow-up testing applied to employees following a positive random test. (Weld County Code Ordinance 2003-3)

Sec. 3-13-150. Random testing.

A. Random testing for drugs and alcohol will be conducted for all employees performing safety-sensitive functions at a rate established by law. Random tests will be unannounced, will be spread reasonably throughout the year beginning in January, and may be conducted on all days and hours during which transit service is in operation. There will be no pattern to when random tests will be conducted, and all employees performing safety-sensitive functions will have an equal chance of being selected for testing from the random pool each time random tests are conducted. Employees shall remain in the pool even after being selected and tested. Therefore, an employee may be selected for a random test more than once during a year.

B. Employees will be selected anonymously using an identification number having no correlation to actual employee names. The random selection method used shall be a scientifically valid method, such as a random number table or a computer-based random number generator that is mapped to the safety-sensitive employee's social security number. (The current requirement of random testing is to annually complete tests equivalent to fifty percent [50%] of the number of covered employees for drug testing and ten percent [10%] of the number of covered employees for alcohol testing.) The selection process will guarantee that each covered employee will have an equal chance of being tested each time selections are made. There is no discretion on the part of management or operations in the selection and notification of particular employees for testing. Random testing must annually complete tests equivalent to fifty percent (50%) of the number of covered employees for drug testing and twenty-five percent (25%) of the number of covered employees for alcohol testing, which rates are subject to annual review and adjustment. The employee must report to the collection site immediately after receiving notification of his or her selection from the random pool. It is the responsibility of the Medical Review Officer to maintain the data base of safety-sensitive employees and to perform the random selection of employees to be tested each testing cycle. In the event a randomly selected employee is absent from work on the day his or her test is scheduled, the employee will be tested immediately upon his or her return to work, as practicable, unless the employee fails to return to work before the next randomly selected testing date.

C. In the event it is necessary to collect a urine specimen from an employee for random testing outside his or her regular work hours, the employee will be paid for the extra time at the applicable overtime rate. A safety-sensitive employee will be subject to random testing for alcohol only while the employee is performing safety-sensitive functions or just before or just after performing safety-sensitive functions.

D. Consequences of positive test result. **Pursuant to County policy, an employee whose random drug test is positive or whose alcohol test result is 0.04 or greater will be removed from his or her safety-sensitive position on a status of "leave without pay" and will be subject to discipline, up to and including termination, pursuant to this Code. For the duration of the leave without pay, the employee cannot utilize any accrued sick or vacation leave. Furthermore, the employee will be subject to disciplinary action, up to and including termination, pursuant to this Code.** (Weld County Code Ordinance 2003-3)

Sec. 3-13-160. Return-to-duty testing.

A. An employee who receives a verified positive drug test result or an alcohol test result of 0.04 or greater, who refuses to submit to any test or who improperly uses alcohol while on duty or after an accident (before post-accident testing is complete) may not return to work to perform a safety-sensitive function until the employee: (1) is referred for evaluation by a Substance Abuse Professional who determines that the employee has followed any treatment program prescribed by the Substance Abuse Professional; and (2) passes a return-to-duty test. A return-to-duty test may be performed after the Substance Abuse Professional indicates that the employee has completed or is following any prescribed treatment program. The County is not obligated to return an employee to a safety-sensitive position just because he or she has completed or is following any prescribed treatment program and has passed a return-to-duty test. In the return-to-duty evaluation, the Substance Abuse Professional also shall determine the frequency and duration of follow-up testing after the employee returns to duty. At a minimum, the Substance Abuse Professional must direct that the employee be subject to six (6) unannounced follow-up tests in the first twelve (12) months of safety-sensitive duty following the employee's return to safety-sensitive functions. The Substance Abuse Professional may recommend that the employee be subject to a return-to-duty test for both drugs and alcohol even if the employee only tested positive for one (1) or the other. To pass the return-to-duty test, the result must be a verified negative drug test result and/or an alcohol test result of less than 0.02.

B. Consequences of positive test result. **Any positive return-to-duty drug test, taken at the employee's expense, or return-to-duty alcohol test with a result of 0.02 or higher, taken at the employee's expense, will subject the employee to disciplinary action, up to and including termination, pursuant to this Code.** (Weld County Code Ordinance 2003-3)

Sec. 3-13-170. Follow-up testing.

A. Employees permitted to return to duty are subject to unannounced follow-up testing. The Substance Abuse Professional shall determine the frequency and duration of the follow-up testing. A minimum of six (6) follow-up tests during the first twelve (12) months after the employee returns to duty will be performed. The testing period shall not exceed sixty (60) months from the employee's return to duty. Follow-up testing is separate from, and in addition to, the regular random testing program. Accordingly, employees subject to follow-up testing will remain in the standard random pool and will be tested whenever their names come up for random testing, even if this means being tested twice in the same day, week or month.

B. The Substance Abuse Professional may recommend that the employee be subject to follow-up testing for both drugs and alcohol even if the employee only tested positive for one (1) or the other. Therefore, an employee who is subject to follow-up drug tests may be required to take one (1) or more follow-up alcohol tests with a result of less than 0.04. If the employee is subject to follow-up alcohol tests, the employee may be required to take one (1) or more follow-up drug tests with a verified negative result. Follow-up alcohol testing will be conducted only just before, just after or during the period the employee is to perform a safety-sensitive function. The employee may not substitute any other tests (e.g., those carried out under the random testing program) conducted on the employee for this follow-up testing requirement. Additionally, a canceled follow-up test may not be counted as a completed test.

C. Consequences of positive test result or failure to submit to follow-up testing. **Any positive test result for an employee subject to required follow-up testing (including the positive result of a safety-sensitive job transfer, random, reasonable suspicion, post-accident or other test), with the test being taken at the employee's expense, or failure to submit to required follow-up testing, will be grounds for disciplinary action, up to and including termination, pursuant to this Code.** (Weld County Code Ordinance 2003-3)

Sec. 3-13-180. Consequences for engaging in drug- and alcohol-related conduct.

A. Controlled substances. An employee who tests positive for drugs or refuses to submit to a drug test must be removed from performing safety-sensitive functions immediately **on a status of "leave without pay." For the duration of the leave without pay, the employee cannot utilize any accrued sick or vacation leave. Pursuant to this Code, a verified positive drug test may subject the employee to discipline, up to and including termination.** An employee who tests positive for drugs or refuses to submit to a drug test may not perform a safety-sensitive function until the employee has been referred for evaluation by a Substance Abuse Professional, completed any recommended treatment, been informed of education/treatment programs for controlled substance abuse and taken a return-to-duty drug test at the employee's expense with a verified negative result. The County retains the right to terminate or otherwise discipline an employee who tests positive for drugs or refuses to submit to a drug test.

B. Alcohol. **An employee who has an alcohol concentration of 0.02 or greater, but less than 0.04 (a non-positive alcohol test) must: (1) be removed from safety-sensitive functions for a minimum of eight (8) hours on a status of "leave without pay" or until a retest, at the employee's expense, is below 0.02; (2) be informed of education/treatment programs for alcohol misuse and**

abuse; and (3) sign the statement on the alcohol testing form acknowledging that he or she shall not perform safety-sensitive functions or operate a motor vehicle during this period. For the duration of the leave without pay, the employee cannot utilize any accrued sick or vacation leave. An employee who has an alcohol concentration of 0.04 or greater must be removed from safety-sensitive duties and may not perform such duties until the employee has been referred for evaluation by a Substance Abuse Professional, completed any recommended treatment, been informed of education/treatment programs for alcohol misuse and abuse and passed a return-to-duty test, at the employee's expense, with an alcohol concentration of less than 0.02. The County retains the right, pursuant to the provisions of this Code, to terminate or otherwise discipline an employee who tests positive for alcohol or refuses to submit to an alcohol test. On-duty use of alcohol or the use of alcohol after an accident (before post-accident testing is complete) carries the same consequences as a positive test result. (Weld County Code Ordinance 2003-3)

Sec. 3-13-190. Retesting at employee's request.

A. U.S. Department of Transportation regulations provide for a split sample procedure which requires a portion of each urine specimen to be retained in a separate, sealed container. An employee whose urine test is positive may request that the split sample be tested at a separate laboratory approved by the U.S. Department of Health and Human Services. U.S. Department of Transportation regulations require that the employee makes such a request within seventy-two (72) hours of receiving notice of a verified positive test. (In the event an employees fails to make a timely request, the employee must present information to the Medical Review Officer documenting that serious illness, injury, inability to contact the Medical Review Officer, lack of actual notice of the verified positive result or other circumstances unavoidably prevented the employee from timely contacting the Medical Review Officer. If the Medical Review Officer concludes that there is a legitimate explanation for the employee's failure to contact the Medical Review Officer within seventy-two [72] hours, the Medical Review Officer shall initiate a test of the split specimen.)

B. The Medical Review Officer shall notify the employee of his or her right to request the split sample testing. If the analysis of the split specimen fails to reconfirm the presence of the drug or drug metabolites found in the primary specimen, if the split specimen is unavailable or inadequate for testing or untestable, or if the adulteration or substitution criteria of the split specimen has not been met, the Medical Review Officer must cancel both tests and report such cancellation and the reason for it to the U.S. Department of Transportation, the employee and the County. The Medical Review Officer will then direct the Designated Employer Representative to ensure the immediate collection of another specimen under direct observation, if appropriate, in accordance with U.S. Department of Transportation regulations. If the split is found to be adulterated and the primary sample is not, the Medical Review Officer must inform the employee that the split is adulterated and determine if there is a legitimate medical explanation for the laboratory finding of adulteration. If the Medical Review Officer determines there is a legitimate medical explanation, the Medical Review Officer shall then report to the Designated Employer Representative and the employee that the split specimen test is canceled. If, however, the Medical Review Officer determines that there is not a legitimate medical explanation, the Medical Review Officer shall report the test to the Designated Employer Representative and the employee as a verified refusal to test. The Medical Review Officer shall then inform the employee that he or she has seventy-two (72) hours to request a test of the primary specimen to determine if the adulterant in the split specimen is also present in the primary specimen.

C. Pursuant to County policy, all costs associated with split sample testing must be paid by the employee, including shipping and handling, transportation, testing and reporting to the Medical Review Officer. If the result of the split sample test is negative, these costs will be reimbursed to the employee. Additionally, if the result of the split sample test is negative, the employee will be reinstated with no loss of seniority and paid for lost back wages. (Weld County Code Ordinance 2003-3)

Sec. 3-13-200. Notification of convictions.

Pursuant to the requirements of the Drug-Free Workplace Act, employees must notify the County within five (5) days of any criminal drug statute conviction for a violation occurring in the workplace. (Weld County Code Ordinance 2003-3)

Sec. 3-13-210. Contact person.

FTA regulations require that a single contact person be identified to answer questions about this policy. **For the purposes of this policy, the contact person will be the County Drug and Alcohol Testing Program Administrator at the Weld County Department of Human Resources, 915 10th Street, Greeley, Colorado 80631, who may be reached at (970) 356-4000, Ext. 4234. Copies of relevant regulations also are available at the Department of Human Resources.** (Weld County Code Ordinance 2003-3; Weld County Code Ordinance 2007-4)

Sec. 3-13-220. Effects of alcohol.

FTA regulations require that written drug and alcohol policies include a discussion of the effects of alcohol misuse. That information is contained in the "Effects of Alcohol Fact Sheet," attached to this Code as Appendix 3-B, which appeared as part of the "Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit," issued by the Federal Transit Administration Office of Safety and Security. (Weld County Code Ordinance 2003-3)

Sec. 3-13-230. Education and training.

A. Training for employees. The County will display and distribute to employees who are performing a safety-sensitive function educational materials explaining the requirements of the Federal Transit Administration Drug and Alcohol Testing Regulations and its policies and procedures. Employees and supervisors who perform a safety-sensitive function also will be provided at least sixty (60) minutes of training on the effects and indications of drug use. Employees will be required to sign a form indicating that they have received a copy of the policies and procedures. This form will be kept on file.

B. Training for supervisors. Supervisors responsible for determining when to administer reasonable suspicion tests will receive at least sixty (60) minutes of alcohol awareness training and at least sixty (60) minutes of drug awareness training. (Weld County Code Ordinance 2003-3)

ARTICLE XIV

Implementation of Federal Motor Carrier Safety Administration Regulations on Drug Use and Alcohol Misuse

Sec. 3-14-10. Overview.

A. This policy is designed to enhance productivity and safety and to foster excellence by maintaining a safe and productive environment for employees. The County maintains a strong commitment to a drug-free and an alcohol-free work environment and has adopted this policy to provide guidance to supervisors and employees in dealing with drug use and alcohol misuse. This policy is applicable only to County employees subject Federal Motor Carrier Safety Administration (FMCSA) regulations on the misuse of alcohol and the use of controlled substances. The County reserves the right to conduct drug and/or alcohol tests of applicants or current employees in accordance with any other state and/or federal law.

B. To further our commitment to providing a safe, drug-free and alcohol-free environment, the County has adopted the following policies:

- (1) An employee and supervisor education and training program regarding drug and alcohol misuse and abuse.
- (2) A drug and alcohol testing program for drivers and applicants seeking employment as drivers who perform safety-sensitive functions.
- (3) A program for evaluating drivers who violate the drug use and alcohol misuse policy.
- (4) Administrative procedures of record keeping, reporting, releasing information and certifying compliance with the FMCSA regulations.

C. The County is dedicated to ensuring fair and equitable application of this substance abuse policy. Therefore, supervisors and managers are required to use and apply all aspects of this policy in an unbiased and impartial manner to the employee categories listed in Section 3-14-20 of this Code. Any supervisor or manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including dismissal, pursuant to this Code.

D. The Department of Human Resources Services is responsible for the enforcement of this substance abuse policy and is the Designated Employer Representative. (Weld County Code Ordinance 2003-3; Weld County Code Ordinance 2007-4)

Sec. 3-14-20. Employee categories subject to testing.

A. The FMCSA regulations apply to all drivers of commercial motor vehicles in interstate or intrastate commerce who perform safety-sensitive functions and are subject to commercial driver's license ("CDL") requirements. Applicants and current employees seeking positions as drivers who will perform safety-sensitive functions also are covered by the FMCSA regulations.

B. A driver is considered to be performing a safety-sensitive function during any period in which the driver is actually performing, ready to perform or immediately available to perform any safety-sensitive function. Therefore, an employee who is "on call" for duty is covered by this policy. The FMCSA defines the following functions as safety-sensitive:

1. All time at a carrier or shipper plant, terminal, facility or other property waiting to be dispatched, unless the driver has been relieved from duty by the employer.
2. All time inspecting equipment as required by the FMCSA regulations, or otherwise inspecting, servicing or conditioning any commercial motor vehicle at any time.
3. All time spent at the driving controls of a commercial motor vehicle.
4. All time, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).
5. All time loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle or giving or receiving receipts for shipments loaded or unloaded.
6. All time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

C. The following categories of drivers for the County are subject to the policy and are considered to perform safety-sensitive functions:

1. Service Workers I, II and III.
2. Lead Worker.

3. Welder III.
4. Engineering Tech II.
5. Foreman.
6. Supervisor.

D. Although the following categories of drivers for the County do not perform safety-sensitive functions as defined above, pursuant to County policy they are subject to the regulations set forth in this substance abuse policy:

1. Public Works Graders II and III.
2. Weed Control Specialists I and II.
3. Weed Control Lead Worker.
4. Mowers I and II.
5. Vegetation Management Specialist.

E. These lists are subject to amendment at any time. Participation in this drug and alcohol testing program is a condition of employment for each of the above-listed drivers. (Weld County Code Ordinance 2003-3; Weld County Code Ordinance 2003-6)

Sec. 3-14-30. Prohibited conduct.

A. Alcohol.

1. Drivers subject to this policy must not consume alcohol:
 - a. While performing a safety-sensitive function.
 - b. Within four (4) hours prior to performing a safety-sensitive function.
 - c. For up to eight (8) hours following an accident or until the driver undergoes a post-accident test, whichever occurs first.

2. Drivers are prohibited from possessing alcohol while on duty or while operating a commercial motor vehicle unless the alcohol is manifested and transported as part of a shipment. As referred to in this policy, *alcohol* means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular-weight alcohols, including methyl and isopropyl alcohol. *Alcohol use* means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication) containing alcohol. FMCSA regulations currently prohibit drivers from reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. (Drivers subject to this policy are strictly prohibited from using or ingesting prohibited drugs at any time, except when the use is pursuant to the instruction of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely perform his or her job. Any driver taking such a substance at a physician's instruction must inform the County of such drug use. The County retains the right to verify the use with the employee's physician. Manufacturing, distributing, dispensing, possessing or using controlled substances in the work place is prohibited pursuant to the Drug-Free Workplace Act.)

B. Controlled substances.

1. Pursuant to County policy, any driver who manufactures, distributes, dispenses, processes, sells, attempts to sell or arranges to sell a controlled substance to any other person, whether on or off County property, whether on or off duty, shall be subject to discipline up to and including discharge.

2. As referred to in this policy, a controlled substance or prohibited drug means marijuana, cocaine, opiates, amphetamines or phencyclidine. FMCSA regulations prohibit the performance of safety-sensitive functions when a prohibited level of any of the five (5) specified drugs is detectable in the driver's urine.

3. An employee will not be allowed to perform or continue to perform safety-sensitive functions if the County has actual knowledge that the employee was using controlled substances at any time or alcohol during the performance of a safety-sensitive duty or four (4) hours prior to reporting to duty for a covered position. (Weld County Code Ordinance 2003-3)

Sec. 3-14-40. Drug and alcohol testing program.

A. Drivers who perform safety-sensitive functions, and those listed above who do not perform safety-sensitive functions, will be subject to testing pursuant to FMCSA regulations. Testing of other employees, applicants for employment and any drivers who perform safety-sensitive functions over and above the requirements of FMCSA regulations will be performed pursuant to separate authority of the County. Any testing procedures utilized by the County will conform with applicable federal and state requirements.

B. Under County policy and FMCSA, a refusal to take a test will constitute the equivalent of a positive drug test or an alcohol test of 0.04 or greater. Therefore, refusal by a driver to submit to required testing or failure to pass a drug or alcohol test will lead to disciplinary action, up to and including termination, pursuant to this Code. Any driver who refuses to submit to a required drug or alcohol test will not be permitted to continue to perform safety-sensitive functions. Refusal to take a test includes:

1. Outright refusal to submit to a test or any part of the testing process.
2. Failure to provide sufficient quantities of saliva, breath or urine to be tested without a valid medical explanation.
3. Failure to undergo a medical examination as directed by the Medical Review Officer or Designated Employer Representative
4. Engaging in conduct that clearly obstructs the testing process.
5. Refusal to sign the certification in Step 2 of the Breath Alcohol Testing Form.
6. Leaving the scene of an accident without a valid reason before tests are conducted without notifying the County of where the driver can be reached for testing.
7. Failure to appear for any test within a reasonable time as determined by the County (except a pre-employment test).
8. Failure to remain at the testing site until the testing process is complete.
9. In the case of a directly observed or monitored collection, failure to permit the observation or monitoring.
10. Failure to take a second test as directed by the employer or collector.
11. A verified adulterated or substituted test result as reported by the Medical Review Officer.

C. Pursuant to County policy, any driver who tampers with, falsifies, substitutes or alters a urine sample, saliva or breath test, or who attempts to do so, shall be subject to disciplinary action, up to and including termination, pursuant to this Code.

D. The County will adhere to all required standards of confidentiality as defined in 49 CFR Part 382, Subpart D. Testing records and results will be released only to the employee upon a written request and those authorized to receive such information. (Weld County Code Ordinance 2003-3)

Sec. 3-14-50. Testing for controlled substances.

- A. Drug testing of drivers who perform safety-sensitive functions is limited to the following substances:
1. Marijuana.
 2. Cocaine.

3. Amphetamines.
4. Opiates (e.g., heroin, codeine).
5. Phencyclidine (PCP).

B. While drug testing by the County normally will be limited to the five (5) substances listed above, the County reserves the right, pursuant to its policy and under its own authority, to require drivers to provide separate specimens for testing for other controlled substances, as permitted by law. The County reserves the right, pursuant to its policy and under its own authority, as permitted by law, to perform drug tests of applicants or current employees not covered by this policy using the same procedures FMCSA requires for testing drivers who perform safety-sensitive functions. (Weld County Code Ordinance 2003-3)

Sec. 3-14-60. Testing for alcohol.

Alcohol testing of drivers will be performed pursuant to FMCSA regulations. The County reserves the right, pursuant to its policy and under its own authority, as permitted by law, to perform alcohol tests of applicants or current employees not covered by this policy using the same procedures FMCSA requires for testing drivers who perform safety-sensitive functions. (Weld County Code Ordinance 2003-3)

Sec. 3-14-70. Testing procedures.

A. The County will select an appropriate site for the administration of drug and alcohol tests which meets the requirements specified by the U.S. Department of Transportation 49 CFR Part 40. A copy of said Part 40 is available to any employee who would like to review the procedures. Pursuant to County policy, drug and alcohol testing will be conducted off County premises. Normally, administration of alcohol tests will be performed concurrently with urine collections. The County reserves the right, however, to administer alcohol tests separately from urine collections and to administer alcohol tests and/or urine collections on County premises.

B. The site selected for collecting urine specimens will provide: a privacy enclosure for urination; a toilet; a suitable, clean writing surface; and a water source for hand washing which, if practicable, will be located outside the privacy enclosure. The contractor who conducts the testing will ensure that access to the testing site is restricted during testing, that unauthorized persons are not present and that there are no unobserved entrance points to the testing site. Furthermore, the County shall ensure that the collection site personnel provided by the contractor have certified qualifications and during the collection process ensure the dignity and privacy of the donor, and that all collection site personnel are trained to prepare the collection site, collect specimens, examine specimens for tampering or sample adulteration, observe collections, split specimens and properly label and preserve the chain of custody of the specimens. These steps will be taken to protect the driver and the integrity of the drug testing process, safeguard the validity of the test results and ensure that the test results are attributed to the proper driver. (Alcohol tests will be conducted with the use of a nonevidential screening device and/or evidential breath testing device approved for use by the National Highway Traffic Safety Administration. A Screening Test Technician will administer nonevidential screening tests, including saliva tests. Only a Breath Alcohol Technician will administer an evidential breath testing device test. Alcohol tests will be administered in a location that affords visual and aural privacy to the driver being tested which is sufficient to prevent unauthorized persons from seeing or hearing test results. If the screening test reveals a blood alcohol concentration of less than 0.02, the test is negative and will be reported as such. If the screening test reveals a blood alcohol concentration of 0.02 or greater, a confirmation test will be performed. Confirmation tests will be performed using an evidential breath testing device and conducted within thirty [30] minutes of the completion of the screening test. If the driver must be transported from the screening site to the confirmation site, the driver will remain under the direct observation of a Breath Alcohol Technician, Screening Test Technician, or other employer representative. These steps will be

taken to protect the driver and the integrity of the testing process, safeguard the validity of the test results and ensure that the test results are attributed to the proper driver.) (Weld County Code Ordinance 2003-3)

Sec. 3-14-80. Role of Medical Review Officer.

All drug test results will be reviewed first by a specially trained and certified physician serving as Medical Review Officer. The Medical Review Officer will follow all the appropriate procedures as defined in 49 CFR Part 40. The Medical Review Officer will notify the County directly if a driver's drug test result is negative. If the drug test result is positive, the Medical Review Officer will contact the driver to discuss the test, to determine if the positive result is valid and to notify the driver that he or she has seventy-two (72) hours to request a test of the split specimen. (See Section 3-14-190 entitled "Retesting at Driver's Request" for a detailed description of split test procedures.) The County only will be informed that an individual has tested positive or negative. The specific drug involved may be disclosed to the County by the Medical Review Officer. The levels detected will not be disclosed by the Medical Review Officer to the County. (Weld County Code Ordinance 2003-3)

Sec. 3-14-90. Role of Substance Abuse Professional.

A. All drivers with a verified positive drug test result or a confirmed alcohol test result of 0.04 or greater, including those who have been terminated, will be referred for evaluation by a Substance Abuse Professional. If the driver's eventual return to work is permitted under this policy, the Substance Abuse Professional shall prescribe a treatment program which the driver must successfully complete or continue to follow in order to return to work. This treatment program may include referral of the driver by the Substance Abuse Professional to a treatment provider. The specific responsibilities and protocols that are followed by the Substance Abuse Professional are defined in 49 CFR Part 40.

B. Drivers permitted to return to work following a positive test shall be re-evaluated by the Substance Abuse Professional to determine whether the driver has complied with the Substance Abuse Professional's recommendations. After that evaluation and the successful completion of a return-to-duty test, the Substance Abuse Professional shall recommend to the employer the number and frequency of follow-up alcohol and/or drug tests to be administered following the driver's return to duty. The follow-up testing shall consist of at least six (6) tests in the first twelve (12) months following the driver's return to duty. The Substance Abuse Professional shall recommend whether the driver should be subject to both drug and alcohol follow-up tests. (Weld County Code Ordinance 2003-3)

Sec. 3-14-100. Employee assistance program.

The County will assist employees who test positive by providing information about treatment providers and programs to help the employees resolve their problems with drugs or alcohol. (Weld County Code Ordinance 2003-3)

Sec. 3-14-110. Types of testing.

The County will perform the following types of drug and alcohol testing:

- A. Pre-employment testing (drug testing only).
- B. Reasonable suspicion testing.
- C. Post-accident testing.
- D. Random testing.
- E. Return-to-duty testing.
- F. Follow-up testing. (Weld County Code Ordinance 2003-3)

Sec. 3-14-120. Pre-employment testing.

A. All applicants for and current employees seeking transfer to employment as a driver who will perform safety-sensitive functions will be informed in writing of the testing requirements and will undergo a pre-employment drug test. The County will not hire an applicant or transfer an employee to such a position unless the result of the applicant's or employee's drug test is negative. The County also will make reasonable efforts to contact each of the applicant's employers over the previous two-year period to determine if the employee has tested positive for either drugs or alcohol. The County will document this effort clearly and will maintain these records for a minimum of five (5) years. The applicant must provide a limited consent for the County to obtain this information. Failure to provide this consent will disqualify an applicant from employment or disqualify an incumbent employee's application for transfer to a position as a driver who performs safety-sensitive functions. If the driver has tested positive while previously employed, the County must verify that the driver completed a treatment program recommended by the Substance Abuse Professional and obtained a verified negative test result.

B. Consequences of positive test result. A positive pre-employment drug test shall be considered sufficient grounds to disqualify the applicant or incumbent employee from employment with the County in a position as a driver who performs safety-sensitive functions. All applicants or employees with a positive result will receive a referral to a Substance Abuse Professional. Pursuant to County policy, an incumbent employee whose drug test result is positive will be subject to the same consequences as an employee whose random drug test was positive.

C. The County will not assign an applicant or incumbent employee who has refused to take or failed a pre-employment drug test to a position as a driver who performs safety-sensitive functions. If such an applicant or employee later applies for such a position, the County will administer another pre-employment drug test. If the employee or applicant passes the second pre-employment test, the County may, in its sole discretion, assign and/or hire the employee or applicant to work in a position as a driver who performs safety-sensitive functions. (Weld County Code Ordinance 2003-3)

Sec. 3-14-130. Reasonable suspicion testing.

A. Drivers who perform safety-sensitive functions will be required to submit to a drug or alcohol test when the County has a reasonable suspicion that the driver has used a prohibited drug or misused alcohol. Reasonable suspicion is established if a supervisor trained in detecting the signs of alcohol misuse and drug use reasonably concludes, based on his or her observations, that the driver has used drugs or misused alcohol. The determination that reasonable suspicion to test exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

B. The County will direct a driver to undergo reasonable suspicion testing for alcohol only if such observations are made during, just preceding or just after the period of the workday that the driver is required to comply with the driver alcohol use prohibitions. The alcohol test may be administered only just before, just after or during the period the driver is to perform a safety-sensitive function. A driver ordered to submit to reasonable suspicion testing shall be transported to the screening site by a supervisor or other person designated by the supervisor. A reasonable suspicion test for alcohol must be performed within eight (8) hours following a determination that reasonable suspicion to test exists. If a reasonable suspicion test is not performed within two (2) hours after such a determination, the County will prepare and maintain a record stating the reasons the

test was not promptly administered. No driver suspected of alcohol misuse, as shown by the behavioral, speech or performance indicators of alcohol misuse, may perform or continue to perform safety-sensitive functions until an alcohol test is administered evidencing a blood alcohol concentration of less than 0.02, or at least twenty-four (24) hours have elapsed following the administration of the reasonable suspicion test. A written record of the observations leading to a controlled substance or alcohol reasonable suspicion test shall be made and signed by the supervisor or company official within twenty-four (24) hours of the observation or before the test results are released, whichever is earlier.

C. Under the authority of the County, a driver who undergoes reasonable suspicion testing will be removed from service pending the test results on a status of "administrative leave with pay." If the test results are negative, the driver will be returned to work (without loss of pay).

D. Consequences of positive test result. Pursuant to County policy, if the reasonable suspicion drug or alcohol test result is positive, the driver will be removed from the safety-sensitive position on a status of "leave without pay," referred to a Substance Abuse Professional and subject to discipline, up to and including termination, pursuant to this Code. For the duration of the leave without pay, the driver cannot utilize any accrued sick or vacation leave. At a minimum, the driver shall be subject to the same consequences applied to drivers following a positive random test. If the driver is not terminated, the driver shall be subject to the same requirements regarding assessment, rehabilitation, return-to-duty and follow-up testing applied to drivers following a positive random test. (Weld County Code Ordinance 2003-3)

Sec. 3-14-140. Post-accident testing.

A. Each surviving driver who was performing a safety-sensitive function with respect to the vehicle will be tested for both drugs and alcohol if the accident involved the loss of a human life. Additionally, each driver will be tested for both drugs and alcohol who receives a citation under state or local law for a moving traffic violation arising from the accident, where the accident resulted in an injury requiring immediate medical treatment away from the scene or disabling damage to any motor vehicle that requires towing services.

B. Tests for the use of prohibited drugs and misuse of alcohol will be administered as soon as practicable following an accident involving a commercial motor vehicle. Drug tests must be performed within thirty-two (32) hours following an accident. If the drug test is not administered within thirty-two (32) hours, the County will cease efforts to test for drugs and will prepare and maintain on file a record stating the reasons the test was not promptly administered. Alcohol tests should be performed within two (2) hours following an accident, but in no instance later than eight (8) hours following an accident. A driver subject to post-accident testing must refrain from consuming alcohol for eight (8) hours following the accident or until he or she submits to an alcohol test, whichever comes first. If the driver has not submitted to an alcohol test within two (2) hours of the accident, the County will prepare and maintain on file a record stating the reason that the test was not administered promptly. If the alcohol test is not administered within eight (8) hours after the accident, the County will cease efforts to administer the test and will maintain the same documents.

C. The results of a breath or blood test for the use of alcohol or a urine test for the use of controlled substances, conducted by federal, state or local officials having independent authority for the test, shall be considered to meet the requirements of this Section, provided that such tests conform to applicable federal, state or local requirements and the results of the tests are obtained by the County.

D. These testing requirements will not delay necessary medical attention for injured persons, nor will they prohibit a driver who was performing a safety-sensitive function from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

Drivers performing safety-sensitive functions, however, must remain readily available for testing for thirty-two (32) hours. This means the driver must ensure that the County knows the driver's location for at least a thirty-two-hour period following an accident or until post-accident drug and alcohol tests have been completed. A driver who is not available for testing will be considered to have refused to submit to testing unless his or her unavailability is attributable to efforts to obtain assistance in responding to the accident or obtaining necessary emergency medical care. Drivers will be provided with necessary post-accident information, procedures and instructions prior to operating a commercial motor vehicle so they will be able to comply with this policy.

E. Consequences of positive test result. Pursuant to County policy, if the result of either test is positive, the driver will be removed from his or her safety-sensitive position on a status of "leave without pay," referred to a Substance Abuse Professional and subject to discipline, up to and including termination, pursuant to this Code. For the duration of the leave without pay, the driver cannot utilize any accrued sick or vacation leave. At a minimum, the driver shall be subject to the same consequences applied to drivers following a positive random drug or alcohol test. If the driver is not terminated, the driver shall, at a minimum, be subject to testing applied to drivers following a positive random test. (Weld County Code Ordinance 2003-3)

Sec. 3-14-150. Random testing.

A. Random testing will be conducted for all drivers performing safety-sensitive functions at a rate established by law. Random tests will be unannounced and spread reasonably throughout the year. There will be no pattern to when random tests will be conducted and all drivers who perform safety-sensitive functions will have an equal chance of being selected for testing from the random pool each time random tests are conducted. Drivers shall remain in the pool even after being selected and tested. Therefore, a driver may be selected for a random test more than once during a year.

B. Drivers will be selected anonymously using an identification number having no correlation to actual employee names. The driver must report to the collection site immediately after receiving notification of his or her selection from the random pool. It is the responsibility of the Medical Review Officer contractor to maintain the database of drivers who perform safety-sensitive functions and to perform the random selection of drivers to be tested each testing cycle. In the event a randomly selected driver is absent from work on the day his or her test is scheduled, the driver may be notified at any time during the selection period. If the driver is gone for an extended period of time, an alternate driver shall be randomly selected for testing, the originally randomly selected driver shall be placed back in the pool and the number of those drivers randomly selected in the next selection period shall be increased accordingly.

C. In the event it is necessary to collect a urine specimen from a driver for random testing outside his or her regular work hours, the driver will be paid for the extra time at the applicable rate. A driver will be subject to random testing for alcohol only while the driver is performing safety-sensitive functions or just before or just after performing safety-sensitive functions.

D. Consequences of positive test result. Pursuant to County policy, a driver whose random drug test is positive or whose alcohol test result is 0.04 or greater will be immediately removed from his or her safety-sensitive position on a status of "leave without pay," referred to a Substance Abuse Professional and subject to discipline, up to and including termination, pursuant to this Code. For the duration of the leave without pay, the driver cannot utilize any accrued sick or vacation leave. Furthermore, the driver will be subject to disciplinary action, up to and including termination, pursuant to this Code. (Weld County Code Ordinance 2003-3)

Sec. 3-14-160. Return-to-duty testing.

A. A driver who receives a verified positive drug test result or an alcohol test result of 0.04 or greater, who refuses to submit to any test or who improperly uses alcohol while on duty or after an accident (before post-accident testing is complete) may not return to work until the driver is: (1) referred for evaluation by a Substance Abuse Professional who determines that the driver has followed any treatment program prescribed by the Substance Abuse Professional; and (2) passes a return-to-duty test. A return-to-duty test may be performed after the Substance Abuse Professional indicates that the driver has completed or is following any prescribed treatment program. In the return-to-duty evaluation, the Substance Abuse Professional also shall determine the frequency and duration of follow-up testing after the driver returns to duty. The Substance Abuse Professional may recommend that the driver be subject to a return-to-duty test for both drugs and alcohol even if the employee only tested positive for one (1) or the other. To pass the return-to-duty test, the result must be a verified negative drug test result and/or an alcohol test result of less than 0.02.

B. Consequences of positive test result. Any positive return-to-duty drug test taken at the driver's expense, or return-to-duty alcohol test with a result of 0.02 or higher, taken at the driver's expense, will subject the driver to disciplinary action, up to and including termination, pursuant to this Code. (Weld County Code Ordinance 2003-3)

Sec. 3-14-170. Follow-up testing.

A. Drivers permitted to return to duty are subject to unannounced follow-up testing. The Substance Abuse Professional shall determine the frequency and duration of the follow-up testing. A minimum of six (6) follow-up tests during the first twelve (12) months after the driver returns to duty will be performed at the driver's expense. The testing period shall not exceed sixty (60) months from the driver's return-to-duty. Follow-up testing is separate from and in addition to the regular random testing program. Accordingly, drivers subject to follow-up testing will remain in the standard random pool and will be tested whenever their names come up for random testing, even if this means being tested twice in the same day, week or month.

B. The Substance Abuse Professional may recommend that the driver be subject to follow-up testing for both drugs and alcohol even if the driver only tested positive for one (1) or the other. Therefore, a driver who is subject to follow-up drug tests may be required to take one (1) or more follow-up alcohol tests with a result of less than 0.02. If the driver is subject to follow-up alcohol tests, he or she may be required to take one (1) or more follow-up drug tests with a verified negative result. Follow-up alcohol testing will be conducted only when the driver is performing safety-sensitive functions or just before or just after the driver performs such functions.

C. Consequences of positive test result. Any positive test result for a driver subject to follow-up testing (including the positive result of a safety-sensitive job transfer, random, reasonable suspicion, post-accident or other test), with the test being taken at the driver's expense, will subject the driver to disciplinary action, up to and including termination, pursuant to this Code. (Weld County Code Ordinance 2003-3)

Sec. 3-14-180. Consequences for engaging in drug- and alcohol-related conduct.

A. Controlled substances. A driver who tests positive for drugs or refuses to submit to a drug test must be removed from performing safety-sensitive functions immediately on a status of "leave without pay." For the duration of the leave without pay, the driver cannot utilize any accrued sick or vacation leave. A verified positive drug test may subject the driver to discipline, up to and including termination, pursuant to this Code. A driver who tests positive for drugs or refuses to submit to a drug test may not perform a safety-sensitive function until he or she

has been referred for evaluation by a Substance Abuse Professional, completed any recommended treatment, been informed of education/treatment programs for controlled substance abuse, and taken a return-to-duty drug test at the driver's expense with a verified negative result. The County retains the right to terminate or otherwise discipline a driver who tests positive for drugs or refuses to submit to a drug test.

B. Alcohol. A driver who has an alcohol concentration of 0.02 or greater but less than 0.039 (a nonpositive alcohol test) must: (1) be removed from safety-sensitive functions, on a status of "leave without pay," until the start of the driver's next regularly scheduled duty period, to begin not less than twenty-four (24) hours following administration of the alcohol test; (2) be informed of education/treatment programs for alcohol misuse and abuse; and (3) sign the statement on the alcohol testing form acknowledging that he or she shall not perform safety-sensitive functions or operate a motor vehicle during this period. A driver whose alcohol test reveals an alcohol concentration of 0.04 or greater may not perform a safety-sensitive function until he or she has been referred for evaluation by a Substance Abuse Professional, completed any recommended treatment and passed a return-to-duty test, at the driver's expense, with an alcohol concentration of less than 0.02. The County retains the right to terminate or otherwise discipline a driver who tests positive for alcohol or refuses to submit to an alcohol test. (Weld County Code Ordinance 2003-3)

Sec. 3-14-190. Retesting at driver's request.

A. U.S. Department of Transportation regulations provide for a split sample procedure which requires a portion of each urine specimen to be retained in a separate, sealed container. A driver whose urine test is positive may request that the split sample be tested at a separate laboratory approved by the U.S. Department of Health and Human Services. U.S. Department of Transportation regulations require that the driver make such a request within seventy-two (72) hours of learning of a verified positive test. (In the event a driver fails to make a timely request, the driver must present information to the Medical Review Officer documenting that serious illness, injury, inability to contact the Medical Review Officer, lack of actual notice of the verified positive result or other circumstances unavoidably prevented the driver from timely contacting the Medical Review Officer. If the Medical Review Officer concludes that there is a legitimate explanation for the driver's failure to contact the Medical Review Officer within seventy-two (72) hours, the Medical Review Officer shall initiate a test of the split specimen.)

B. Pursuant to County Policy, unless the result of the split sample test invalidates the result of the original test, all costs associated with split sample testing will be the responsibility of the driver, including the costs of shipping and handling, transportation, testing and reporting to the Medical Review Officer. The County will assure that the split sample is tested in a timely manner if the employee cannot pay; however, the driver will reimburse the cost of the testing process to the County. If the result of the split sample test is negative, these costs will be assumed by the County. Additionally, if the result of the split sample test is negative, the driver will be reinstated with no loss of seniority and paid for lost back wages. (Weld County Code Ordinance 2003-3)

Sec. 3-14-200. Notification of convictions.

Pursuant to the requirements of the Drug-Free Workplace Act, all employees and drivers must notify the County within five (5) days of any criminal drug statute conviction for a violation occurring in the workplace. (Weld County Code Ordinance 2003-3)

Sec. 3-14-210. Contact person.

FMCSA regulations require that a single contact person be identified to answer questions about this policy. For the purposes of this policy, the contact

person will be the Designated Employer Representative, the Drug and Alcohol Testing Program Administrator at the Weld County Department of Human Resources, 915 10th Street, Greeley, Colorado 80631, who may be reached at (970) 356-4000, Ext. 4234. Copies of relevant regulations also are available at the Department of Human Resources. (Weld County Code Ordinance 2003-3; Weld County Code Ordinance 2007-4)

Sec. 3-14-220. Effects of alcohol.

FMCSA regulations require that written drug and alcohol policies include a discussion of the effects of alcohol misuse. That information is contained in the "Effects of Alcohol Fact Sheet," attached to this Code as Appendix 3-B, which appeared as part of the "Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit," issued by the FTA Office of Safety and Security. (Weld County Code Ordinance 2003-3)

Sec. 3-14-230. Effects of controlled substances.

FMCSA regulations require that written drug and alcohol policies contain a discussion of the effects of controlled substance use. That information is contained in controlled substance "Fact Sheets" available at the Department of Human Resources which appeared as part of the "Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit," issued by the FTA Office of Safety and Security. (Weld County Code Ordinance 2003-3; Weld County Code Ordinance 2007-4)

Sec. 3-14-240. Education and training.

Supervisors responsible for determining when to administer reasonable suspicion tests will receive training on this issue. This training will consist of at least sixty (60) minutes for alcohol awareness training and at least sixty (60) minutes for drug awareness training. (Weld County Code Ordinance 2003-3)

Sec. 3-14-250. Record keeping.

The County will strictly adhere to all standards of confidentiality and assure all employees that testing records and results will be released only to those authorized by FMCSA rules to receive such information. All drug and alcohol testing records will be maintained in a secure manner so that disclosure of information to unauthorized persons does not occur. Privacy of each tested employee shall be strictly maintained. (Weld County Code Ordinance 2003-3)

APPENDIX 3-A

DRUG USE AND ALCOHOL MISUSE SERVICE PROVIDERS AND ANSWERS FOR QUESTIONS

The following entities provide services pursuant to this Policy:

Substance Abuse Professional: (referred by Weld County)

Cynthia Fravel, LPC, CAC II, SAP
Front Range Psychotherapy Associates, LLC
760 Whalers Way, C-200
Fort Collins, CO 80525
FAX: 970-204-7883
Phone: 970-204-7880

1501 N. Cleveland Avenue
Loveland, CO 80538
FAX: 970-663-5601
Phone: 970-669-2631

Laboratory:

LabOne, Incorporated
10101 Renner Blvd.
Lenexa, KS 66219
1-800-728-4064

Medical Review Officer:

Medical Technical Review
P. O. Box 490
Hudson, WI 54016
1-800-880-4444

Dr. Christine Kasser, M.D., Associate MRO
Dr. Jeff Larsen, M.D.

Persons with questions regarding Weld County's Policies Implementing the Federal Transit Administration Regulations on Drug Abuse and Alcohol Misuse should contact:

Michelle Raimer
Weld County Department of Human Resources
mraimer@co.weld.co.us
970-356-4000 x4233 – Office
970-352-9019 – Fax

(Weld County Code Ordinance 2003-3; Weld County Code Ordinance 2005-14; Weld County Code Ordinance 2007-4)

APPENDIX 3-B

EFFECTS OF ALCOHOL FACT SHEET

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse.

The following is a discussion of:

- (1) The effects of alcohol misuse on an individual's health, work and personal life;
- (2) The signs and symptoms of an alcohol problem¹; and
- (3) The available methods of intervening when an alcohol problem is suspected.

Effects on Health:

Alcohol is a central nervous system depressant. As such, it slows down physical responses and progressively impairs mental function. Alcohol also depresses the brain centers for self-control and inhibition – leading to loud and aggressive behavior, which makes alcohol appear to act like a stimulant.

Alcohol use can cause unconsciousness, coma, respiratory failure and death. It can have long degenerative effects on many body organs, including the liver, stomach, intestines, heart and brain. The chronic consumption of alcohol (average of three servings per day of beer [twelve ounces], whiskey [one ounce] or wine [six ounces]) over time can result in the following health hazards:

- (1) Decreased sexual functioning;
- (2) Dependency (up to 10% of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed "alcoholic");
- (3) Fatal liver diseases;
- (4) Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast and malignant melanoma (skin cancer);
- (5) Kidney disease;
- (6) Pancreatitis;
- (7) Spontaneous abortion and neonatal mortality;
- (8) Ulcers; and
- (9) Birth defects (up to 54% of all birth defects are alcohol-related).

¹ Sources of Information: Employee Assistance Corporation staff and the Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit.

APPENDIX 3-B (Cont'd)
Effects of Alcohol Fact Sheet

Effect on Work:

Alcohol dulls sensation and impairs vision, memory, coordination and judgment. This can lead to risky behavior, i.e., dangerous driving. Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body. It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body. A person who is legally intoxicated is six times more likely to have an accident than a sober person.

The estimated cost of alcohol abuse is \$117 billion annually. This figure includes medical bills, time lost from work, decreased job efficiency and property damage.

Effects on Personal Life:

The impact of alcohol abuse goes beyond the problem drinker. Each alcoholic affects the lives of four to seven people. Alcohol abuse is a leading cause of child abuse and neglect. It also figures prominently in spousal abuse. Alcohol during pregnancy can cause birth defects, including Fetal Alcohol Syndrome.

Each year in the U.S., over 100,000 deaths are related to alcohol. This figure includes deaths from vehicular accidents, drownings, suicides and numerous physical ailments. This makes alcohol the third leading cause of death in America. The annual toll is broken down as follows.

- 24,000 people will die on the highway due to the legally impaired driver.
- 12,000 more will die on the highway due to the alcohol-affected driver.
- 15,800 will die in non-highway accidents.
- 30,000 will die due to alcohol-caused liver disease.
- 10,000 will die due to alcohol-induced brain disease or suicide.
- Up to another 125,00 will die due to alcohol-related conditions or accidents.

The following are additional social issues related to alcohol.

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetime.
- The rate of separation and divorce in families with alcohol dependency problems is seven times the average.
- 40% of family court cases are alcohol problem related.

APPENDIX 3-B (Cont'd)
Effects of Alcohol Fact Sheet

Signs and Symptoms of an Alcohol Problem² :

Alcohol causes both psychological and physical dependence. When a drinker uses alcohol as an escape from problems and stress and comes to depend on the drug for relief, psychological dependency is present.

When repeated drinking produces tolerance (which is a need to consume more of the drug to obtain the same effect), and the drinker's body needs alcohol to function, physical dependence has developed. Once dependent, many drinkers experience withdrawal symptoms when they stop drinking.

Alcoholism is a disease characterized by, among other things, the drinker's loss of control over his or her drinking, and continued drinking despite major negative consequences. In general, people are said to have a problem with alcohol, or be alcoholic, if they cannot control their drinking, if they are dependent on the drug and if their drinking has a negative impact on their physical or mental health, their families, friends and jobs.

How a Person Using Alcohol Appears/Behaves:

- Poor muscle coordination.
- Dulled mental process.
- Slowed reaction rate.
- Staggering.
- Slurred speech.
- Red eyes.
- Possible constricted pupils.
- Poor hygiene.
- Lack of social control.
- Sleepy or stuporous condition.
- Loss of inhibitions.
- Lack of concentration.
- Confusion.
- Aggressive or violent behavior.
- Odor of alcohol on breath.

² All of these symptoms may indicate problems of alcohol abuse, but may also be symptomatic of other types of personal problems. Supervisors and managers should not attempt to diagnose an alcohol abuse problem, but should confine themselves to observable job performance behaviors.

APPENDIX 3-B (Cont'd)
Effects of Alcohol Fact Sheet

Signs of alcohol misuse on-the-job include:

- Absenteeism.
- On-the-job absenteeism.
- Tardiness.
- Missed deadlines.
- Increased nervousness.
- Greater irritability.
- Procrastination, delays.
- Red or blurry eyes.
- Erratic productivity.
- Hand tremors.
- Flushed face.
- Lower quality of work.
- Repeated minor injuries.
- Poor concentration.
- Undependable.
- Aggressiveness.
- Personal problems.
- Physical deterioration.
- Overreaction to criticism.
- Avoids boss or associates.
- Financial problems.

(Weld County Code Ordinance 2003-3)

APPENDIX 3-C
WELD COUNTY
RETIRED EMPLOYEE EMPLOYMENT CONTRACT

THIS WELD COUNTY RETIRED EMPLOYEE EMPLOYMENT CONTRACT ("Contract") is entered this ___ day of _____, 20__, by and between _____, ("Retired Employee"), and the County of Weld, State of Colorado ("Weld County").

WITNESSETH:

WHEREAS, Retired Employee has been employed by Weld County and intends to retire under the Weld County Retirement Plan ("the Plan") on _____; and

WHEREAS, post retirement, Retired Employee desires to be employed with Weld County, commencing on _____, under this Retired Employee Employment Contract in the position of _____; and

WHEREAS, Weld County sees the benefit of employing Retired Employee on a contract basis, so as to utilize his or her expertise and experience, and for training purposes, for a period of time which may or may not coincide with the time frame for contract employment desired by Retired Employee; and

WHEREAS, the parties hereto enter into this Contract for the purpose of expressing the terms under which such contract employment shall occur.

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, the parties hereto agree as follows:

1. Retired Employee agrees to perform the duties of _____ at a salary the same as Grade ___, Step ___ of the Weld County pay grade system. This salary shall be adjusted annually in the same manner as other Weld County employees in similar positions. Retired Employee's specific duties shall be as determined by his or her supervisor. Retired Employee shall also receive as compensation all benefits normally provided to regular Weld County employees working the same number of hours, which benefits are detailed in the Weld County Home Rule Charter and as adopted in Chapter 3 of the Weld County Code, with the exception of the grievance rights and procedures found in Article IV of said Chapter 3. Additionally, Retired Employee shall not receive disability insurance coverage as compensation for the employment contemplated in this Contract. Retired Employee may be eligible for health, dental and vision insurance either as a reemployed worker pursuant to this Contract, or through the retiree health plan, if he or she qualifies.
2. The employment contemplated in this Contract is "at-will." Both the Retired Employee and the County have the right to terminate this employment relationship at any time for any reason, upon providing to the other party written notice of such termination. This Contract does not create any right to or expectation of continued employment.

APPENDIX 3-C (cont'd)

3. This Contract does not alter or diminish the right of the Board of County Commissioners of Weld County, and Weld County's elected officials and all department heads, to determine the structure and organization of the various departments of County Government which, in the sole opinion of such officials, shall create the greatest efficiency and highest level of service to citizens of the County. Such reasons may include, but are not limited to, the following: workload changes, program changes, privatization, contracting out, policy decisions, funding reductions, departmental reorganizations, downsizing and increased efficiency, which reasons may result in the termination of this Contract.
4. Retired Employee shall be eligible to receive retirement benefits from the Plan based upon benefits earned under the Plan. Retired Employee understands that his or her contract employment with Weld County after his or her retirement shall not be counted towards years of service for the purpose of calculating any retirement benefits. After Retired Employee's retirement date as stated above, no additional contributions shall be made by the County to the Plan, nor shall any employee contributions be deducted from his or her salary.
5. For purposes of the Plan and the Internal Revenue Services, Retired Employee's contract employment status pursuant to the terms of this Contract is the same as a contract employee paid through the Weld County payroll and personnel system. Retired Employee's contract employment shall be subject to the terms set forth herein and Weld County working after retirement policies.
6. Retired Employee may not work more than 1,976 hours per calendar year, but may work less than this number of hours as agreed between the Employee and his or her supervisor.
7. Retired Employee's employment pursuant to this Contract shall be subject to regular performance reviews. As an at-will employee, Retired Employee may be terminated if performance of duties does not meet his or her supervisor's expectations.
8. Retired Employee acknowledges that, prior to executing this Contract, he or she had the opportunity to consult an attorney of choice prior to its execution.
9. By signing below, Retired Employee affirms that no promise or representations have been made to him or her with respect to contract employment post retirement, other than what is stated in this Contract. In making his or her decision to retire, Retired Employee has not relied upon any statement or representation other than what is stated in this Contract.
10. This writing constitutes the entire Contract between the parties hereto with respect to the subject matter herein, and shall be binding upon said parties, their officers, employees, agents and assigns.
11. It is expressly understood and agreed that the terms and of this Contract, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned parties, and nothing in this Contract shall give or allow any claim or right of action whatsoever by any other person not included in this Contract. It is the express intention of the undersigned parties that any entity other than the undersigned parties receiving services or benefits under this Contract shall be an incidental beneficiary only.
12. No portion of this Contract shall be deemed to constitute a waiver of any immunities the parties may possess, nor shall any portion of this Contract be deemed to have created a duty of care which did not previously exist with respect to any person not a party to this Contract.

APPENDIX 3-C (cont'd)

The undersigned hereby enters into this Contract with a full understanding and acceptance of the terms and conditions herein specified.

RETIRED EMPLOYEE:

Retired Employee's Signature

Date

CONCURRENCE:

Elected Official/Department Head

Date

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
WELD COUNTY, COLORADO**

Weld County Clerk to the Board

Chair

BY:

Deputy Clerk to the Board

(Weld County Code Ordinance 2008-6)

