

**STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK**

COUNCIL BILL NUMBER: CB8

ORDINANCE NUMBER: 2024-8

TITLE: AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE BLACK HAWK EMPLOYEE HANDBOOK

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLACK HAWK, GILPIN COUNTY:

Section 1. Pursuant to Article VIII, Section 18 of the City of Black Hawk Home Rule Charter, Section 106 of the City of Black Hawk Employee Handbook is hereby amended to read as follows:

106 HIRING OF RELATIVES

In order to expand the pool of qualified applicants for an organization the size of the City of Black Hawk, the City allows the employment of immediate family members with the following conditions:

- 1) Immediate family members shall not work in the same UNIT WITHIN A DIVISION OF A department;
- 2) An immediate family member shall not directly or indirectly exercise any type of authority over the other immediate family member;
- 3) An immediate family member shall not audit, verify, receive, or be entrusted with moneys received or handled by the other immediate family member; and
- 4) An immediate family member shall not have access to the employer's confidential information, including payroll, and personnel records.

Section 2. Pursuant to Article VIII, Section 18 of the City of Black Hawk Home Rule Charter, Section 707, subsection 8 of the City of Black Hawk Employee Handbook is hereby amended to read as follows:

Section 8 - Tests Required for Employees

Methods for testing for alcohol may include a Portable Breath Test (PBT), Breathalyzer, Evidential Breath Testing device (EBT), or other test authorized for all alcohol testing. For drug testing, urine specimen collection, and testing shall be conducted by a laboratory capable of analyzing samples and keeping such samples in a safe and secure manner. The drugs to be tested include any scheduled controlled substance.

1) Pre - Employment:

Before performing any job duties, an employee must submit to testing for drugs and alcohol. Prior to performing a pre-employment drug and alcohol test, the City must notify the applicant that testing is required under this guideline. The City will not hire applicants to whom a contingent offer of employment has been made who test positive for controlled substances or alcohol for positions requiring a CDL. For all other positions, post-offer testing will include controlled substances (excluding marijuana) and alcohol.

2) Post-Accident Testing:

As soon as possible following an accident, the City shall test each surviving employee for alcohol and drugs when either:

- a. The accident involved a fatality or serious injury requiring immediate medical attention;
- b. The employee received a citation under state or local law for a moving traffic violation arising from the accident;
- c. The accident violated a significant department safety guideline or procedure;
- d. The accident involved significant property damage; or
- e. Any accident where there is reasonable belief that an employee may be under the influence of alcohol or drugs at the time of the accident or near accident.

Alcohol tests shall be conducted within two (2) hours of the accident if possible. A test administered by on-site police or public safety officials under separate authority may be used, and a blood or breath alcohol test and a urine drug test performed by such local officials, using procedures required by their jurisdictions, shall be acceptable. The staff member shall remain in the presence of the immediate supervisor or designated authority until testing is complete.

Drug tests shall be completed within thirty-two (32) hours of the accident. Beyond this period, attempts to test shall cease and a record prepared and maintained by the Police Chief or his designee indicating why the test was not performed.

An employee who is subject to post-accident testing must remain available, or the City may consider the employee to have refused to submit to testing. The employee subject to post-accident testing must refrain from consuming alcohol for eight (8)

hours following the accident, or until they submit to an alcohol test, whichever comes first.

NOTE: Nothing in this guideline shall be construed to require the delay of necessary medical attention for injured people following an accident. Also, the employee is not prohibited from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency care.

3) Post-Critical Incident Testing:

As soon as practical, the City may require a test of each employee involved in a critical incident. Those procedures and time periods set forth under the requirements for post-accident testing shall also apply to post-critical incident testing.

4) Reasonable Suspicion Testing:

The City may initiate a drug or alcohol test when there is reasonable suspicion to believe the employee has violated the prohibitions of this guideline. The decision to test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The documentation for suspicion testing must be completed within twenty-four (24) hours of the observed behavior or before the results are released, whichever is earlier.

5) Random Testing:

Random drug testing AND ALCOHOL shall be administered by Employee Services as required by federal law for those employees required to possess Commercial Drivers' License (CDL) AND POST CERTIFIED POLICE PERSONNEL (EXCLUDING ALCOHOL) as more particularly described in their approved Job Description.

The conditions for selection and notification of random testing are:

- a. Selection of employees shall be made by a scientifically valid method.
- b. Employees Services shall assure that random tests are unannounced and spread reasonably throughout the year.

- c. Employees Services shall ensure that the employees selected for random tests proceed immediately to the collection site upon notification of selection.

In the event an employee who is selected for a random test is on PTO, layoff, or an extended medical absence, Employee Services can select another employee for testing or keep the original selection confidential until the employee returns to duty. If an employee is skipped, Employee Services must document the reason why.

6) Return-to-Duty Testing:

In the event an employee who has violated these alcohol or drug prohibitions is permitted to return to their position, they shall complete a return-to-duty test which need not be confined to the substance involved in the violation.

7) Follow-Up Testing:

If an employee who has violated these alcohol or drug prohibitions is returned to their position, the City may require the employee to undergo unannounced follow-up testing following the employee's return to duty. The number and frequency of the tests are to be determined by the City.

8) Testing Safeguards:

Urine, saliva, breath testing, and/or portable breath testing shall be used to collect specimens for testing of the presence of alcohol or controlled substances. The City shall ensure the integrity of the collection system to maintain confidentiality and ensure that the test results are attributed to the correct employee.

Although other departments in the City may use other, different or more restrictive specimen collection procedures, it is the express intent of the City that the collection procedures under this guideline be less restrictive and limiting.

Section 3. Pursuant to Article VIII, Section 18 of the City of Black Hawk Home Rule Charter, Chapter 9 of the City of Black Hawk Employee Handbook is hereby amended to read as follows:

- 1) "Advancement" means a salary increase.
- 2) "Applicant" means a person who has filed a completed application for employment, submitted a resume, or otherwise applied for a specific job for which the City is currently receiving applications within established personnel policies.
- 3) "Appointment" means the placing of a person in a position on a full-time or part-time basis.
- 4) "Demotion" means the change of an employee from one position to a lower paid position,

with a change in job title and responsibilities.

- 5) "DEPARTMENT" MEANS A FUNCTIONAL AREA WITHIN THE CITY RESPONSIBLE FOR SPECIFIC TASKS OR OBJECTIVES SUCH AS THE FINANCE DEPARTMENT OR THE PUBLIC WORKS DEPARTMENT.
- 6) "Discharge" means involuntary separation of any person subject to these policies.
- 7) "DIVISION" MEANS A FURTHER BREAKDOWN WITHIN A DEPARTMENT, OFTEN REPRESENTING A DISTINCT AREA OF RESPONSIBILITY OR SPECIALIZATION SUCH AS AN ADMINISTRATIVE DIVISION OR PATROL DIVISION IN THE POLICE DEPARTMENT.
- 8) "Employee development" means any form of instruction designed to increase the proficiency, qualifications, knowledge, skills, and abilities of City employees.
- 9) "Full-time employee" means one who is not in an introductory status and who is regularly scheduled to work the City's full-time schedule. Generally, they are eligible for the City's benefits package, subject to the terms, conditions, and limitations of each benefit program.
- 10) "Grievance" is a complaint by an employee concerning any matter related to the employee's employment with the City. All grievances must be filed in writing.
- 11) "Holiday pay" is defined as as one-and-one-half (1½) the employee's regular rate for the actual hours worked, up to the amount of hours recognized for that holiday, up to a maximum of ten (10) hours depending on assigned work schedule. All hours worked on a holiday in excess of the recognized hours will be paid at the employee's straight-time rate.
- 12) "Immediate family" means spouses, including common law spouses, partners in a domestic partnership, partners in a civil union, parents, grandparents, brothers and sisters, children, and grandchildren, as well as the above members of step-families, adoptive families and in-law families of an employee. For purposes of the City's family and medical leave guideline, "immediate family" shall only include those relations contained within the federal Family and Medical Leave Act.
- 13) "Introductory employee" means an employee recently hired, promoted into a position, or transferred to a significantly different position, serving an introductory period.
- 14) "Introductory period" means the length of time (twelve [12] months) during which an employee's skills, abilities, attitude, and other job-related criteria are evaluated to determine their suitability for appointment to a regular position.
- 15) "Layoff" means the separation of an employee from a position because of lack of work or non-availability of funds, abolishment of a position, reduction in service levels, or reduction in workforce.
- 16) "Modified Duty Supervisor" means Authorized Supervisor for assigned modified duty.
- 17) "Non-paid status" means an employee who is on a type of leave authorized by law, including by way of example disability leave or Family and Medical Leave, and who has otherwise exhausted any form of accrued paid leave offered by the City, or who is on Administrative Leave without pay.
- 18) "Normal Business Hours" mean 0800 hours to 1700 hours Monday through Friday.

- 19) "On- duty" means:
 - a. Under FSLA: compensable hours worked. Includes all time an employee must be on duty, or on the employer's premises or at any other prescribed place of work from the beginning of the first principal activity of the workday to the end of the last principal work activity of the workday. Also included is any additional time the employee is allowed (i.e., suffered or permitted) to work.
 - b. Under FMCSA: See Section 707 Drug & Alcohol Use, Section 3, Definitions: On-Duty Time
- 20) "Overtime" means authorized time worked by an employee in excess of their normal work period.
- 21) "Paid Status" means an employee is paid wages for time worked or from hours recorded as earnings from the employee's leave bank, i.e. Paid Time Off (PTO) or sick leave. It does not include earnings from disability benefits.
- 22) "Part-time employee" means a non-exempt employee who is paid on an hourly basis and whose regular work week is less than or equal to twenty-nine (29) hours.
- 23) "Position" means a specific job in the City as authorized by appropriate City ordinance and assigned the appropriate pay level.
- 24) "Promotion" means the movement of an employee from one pay level to a higher pay level.
- 25) "Tenure" means the total number of months of service to the City as of the most recent date of hire to a full-time position.
- 26) "Termination" means permanent separation of an employee from the City employment rolls, resulting from death, discharge, layoff, resignation, or retirement.
- 27) "UNIT" MEANS A SMALLER GROUP WITHIN A DIVISION THAT WORKS ON SPECIFIC TASKS OR FUNCTIONS SUCH AS THE FACILITIES UNIT, THE FLEET UNIT, OR THE MAINTENANCE UNIT WITHIN THE MAINTENANCE SERVICES DIVISION OF PUBLIC WORKS.
- 28) "Working conditions" means those factors, both physical and psychological, which comprise an employee's work environment.

Section 4. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 5. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 6. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 24th day of April 2024.


David D. Spellman, Mayor

ATTEST:


Melissa A. Greiner, CMC, City Clerk

