

THE AMERICANS WITH DISABILITIES ACT (ADA) EQUAL EMPLOYMENT POLICY (§35.140)

The City of Golden, CO will provide equal employment opportunities for individuals with disabilities.

The City of Golden will not discriminate on the basis of disability against a qualified individual in regard to:

- (i) Recruitment, advertising, and job application procedures;
- (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
- (iii) Rates of pay or any other form of compensation and changes in compensation;
- (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- (v) Leaves of absence, sick leave, or any other leave;
- (vi) Fringe benefits available by virtue of employment, whether or not administered by the City of Golden;
- (vii) Selection and financial support for training, including: apprenticeships, professional meetings, conferences and other related activities, and selection for leaves of absence to pursue training;
- (viii) Activities sponsored by the City of Golden, including social and recreational programs; and
- (ix) Any other term, condition, or privilege of employment.

Prohibited Discrimination

For purposes of this policy, the term discrimination includes, but is not limited to, the following actions:

- i. Segregation, or classification of a job applicant or employee in a way that adversely affects his or her employment opportunities or status on the basis of disability.
- ii. Participation in a contractual or other arrangement or relationship that has the effect of subjecting the City of Golden's own qualified applicant or employee with a disability to the discrimination prohibited by this Americans with Disabilities title I regulations. The phrase contractual or other arrangement or relationship includes, but is not limited to, a relationship with an employment or referral agency; labor union, including collective bargaining agreements; an organization providing fringe benefits to an employee of the City of Golden; or an organization providing training and apprenticeship programs. This section applies to the City of Golden, with respect to its own applicants or employees, whether the City offered the contract or initiated the relationship, or whether the City accepted the contract or acceded to the relationship. The City of Golden is not liable for the actions of the other party or parties to the contract which only affect that other party's employees or applicants.
- iii. The City of Golden will not use standards, criteria, or methods of administration, which are not job-related and consistent with business necessity, and:
 - (a) That have the effect of discriminating on the basis of disability; or
 - (b) That perpetuate the discrimination of others who are subject to common administrative control.
- iv. The City of Golden will not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social or other relationship or association.

- v. The City of Golden will make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability, consistent with the City of Golden *ADA Reasonable Accommodation Policy*.
- vi. The City of Golden will not use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test, or other selection criteria, as used by the City of Golden is shown to be job related for the position in question and is consistent with business necessity.
- vii. The City of Golden will not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision, unless the standard, test, or other selection criterion, as used by the City of Golden, is shown to be job related for the position in question and is consistent with business necessity. An individual challenging the City of Golden's application of a qualification standard, test, or other criterion based on uncorrected vision need not be a person with a disability, but must be adversely affected by the application of the standard, test, or other criterion.
- viii. The City of Golden will select and administer tests concerning employment in the most effective manner to ensure that, when a test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude, or whatever other factor of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).
- ix. The City of Golden will not discriminate against any individual because that individual has opposed any act or practice made unlawful by the Americans with Disabilities Act title I regulations or because that individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing to enforce any provision contained in the Americans with Disabilities Act title I regulations.
- x. The City of Golden will not coerce, intimidate, threaten, harass or interfere with any individual in the exercise or enjoyment of, or because that individual aided or encouraged any other individual in the exercise of, any right granted or protected by the Americans with Disabilities Act title I regulations.
- xi. The City of Golden will not allow its employees to coerce, intimidate, threaten, or harass any employee or applicant with a disability.
- xii. The City of Golden will not, except as permitted by EEOC regulation [§1630.14](#), conduct a medical examination of an applicant or make inquiries as to whether an applicant is an individual with a disability or as to the nature or severity of such disability.
- xiii. The City of Golden will not, except as permitted by EEOC regulation [§1630.14](#), require a medical examination of an employee or make inquiries as to whether an employee is an individual with a disability or as to the nature or severity of such disability.

Effective Communication

The City of Golden will ensure that communication with applicants and employees who are deaf, hard of hearing, blind, low-vision, or have impaired speaking skills is as effective as communication with other applicants and employees. To achieve effective communication, the City of Golden will provide auxiliary aids and services consistent with the City of Golden *ADA Effective Communication Policy*.

Applicants

The City of Golden may make pre-employment inquiries into the ability of an applicant to perform job-related functions, and/or may ask an applicant to describe or to demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions.

The City of Golden may require a medical examination (and/or inquiry) after making an offer of employment to a job applicant and before the applicant begins his or her employment duties, and may condition an offer of employment on the results of such examination (and/or inquiry), if all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability. The City of Golden will collect and maintain on separate forms and in separate medical files and treat as a confidential medical record any information obtained resulting from such medical examination (and/or inquiry), regarding the medical condition or history of the applicant, except that:

- (i) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;
- (ii) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and
- (iii) Government officials investigating compliance with this part will be provided relevant information on request.

The City of Golden will not use the results of such examination for any purpose inconsistent with the Americans with Disabilities Act title I regulations.

Employees

The City of Golden may conduct medical examinations in accordance with the above section (*Prohibited Discrimination, xiii.*) that are not job-related and consistent with business necessity. However, if the City of Golden uses certain criteria to screen out an employee or employees with disabilities as a result of such an examination or inquiry, the exclusionary criteria must be job-related and consistent with business necessity, and performance of the essential job functions cannot be accomplished with reasonable accommodation as required by the Americans with Disabilities Act title I regulations.

The City of Golden may require a medical examination (and/or inquiry) of an employee that is job-related and consistent with business necessity. The City of Golden may make inquiries into the ability of an employee to perform job-related functions.

City of Golden will collect and maintain on separate forms and in separate medical files and treat as a confidential medical record any information obtained under the previous sections, regarding the medical condition or history of any employee, except that:

- (i) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;
- (ii) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and
- (iii) Government officials investigating compliance with this part shall be provided relevant information on request.

The City of Golden will not use information regarding the medical condition or history of any employee for any purpose inconsistent with the Americans with Disabilities Act title I regulations.

The City of Golden may conduct voluntary medical examinations and activities, including voluntary medical histories, which are part of an employee health program available to employees at the work site.