

City of Elkins

Personnel Manual

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INTRODUCTION

Welcome to work!

The City of Elkins feels that its most valuable asset is its employees. So that each employee may optimize his or her own contribution to the accomplishment of our objectives as a municipality, we have established basic guidelines through a Personnel Manual for collaborating and building consensus.

This manual sets forth basic guidelines for working together as a team. It is a general reference to assist you in what we hope will be a long and successful employment with the City.

Please review this manual carefully. The policies and procedures contained herein are the official personnel guidelines established by City Council. Changes may be made from time to time as necessity warrants.

Good luck and we look forward to working with you to bring efficiency, effectiveness, and good government to our citizens.

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1. EMPLOYMENT-AT-WILL CLAUSE

Since 1913, West Virginia has recognized the employment-at-will doctrine. Unless otherwise provided by statute or regulation, each and every City employee is an employee-at-will.

1.A: Definition

Employment-at-will means that each employee has the right to terminate his/her employment at any time, with or without good cause, and the City has the right to terminate an individual's employment at any time, with or without good cause, subject only to the requirement that the grievance procedure set forth in Article XII be observed.

1. B: Policy

The practices, procedures and policies set forth herein are general guidelines used in the course of the City's activities. They are not intended to guarantee to any person permanent employment or job security. The City reserves the right to modify, interpret, revoke or change any or all of the guidelines set forth, in whole or in part, at any time.

1. C: Coverage

These policies and procedures apply to all City employees, including those employed by the offices of elected officials and other constitutional officers, as defined by the West Virginia Code. However, where an employee enjoys civil service coverage (e.g., police and fire department employees) none of the policies and procedures contained herein shall apply if they conflict with the requirements or procedures adopted by the pertinent civil service commission. Where such conflicts do not exist, this manual shall apply equally to all employees.

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2. EQUAL OPPORTUNITY POLICY

The City is an Equal Opportunity Employer and will practice Equal Opportunity in all aspects of its operation.

The City strives to administer all of its hiring and employment procedures without regard to race, religion, color, national origin, ancestry, sex, age, veteran or familial status, disability or sexual orientation. This policy shall apply to all employment practices.

The City is committed to the goal of filling all staff openings with the best personnel available. All decisions regarding hiring, promotion, transfer and job retention shall be based upon an individual's qualifications, experience and ability to perform the duties and responsibilities of any given position, regardless of race, religion, color, national origin, ancestry, sex, age, veteran or familial status, or disability. When the City is a recipient of sufficient federal funds, the City will maintain a written equal employment opportunity program that complies with the regulations in effect at the time the program is adopted or amended.

Qualified individuals with bona fide disabilities, as the term "disability" is defined under the Americans with Disabilities Act and the West Virginia Human Rights Act, are entitled to reasonable accommodation in the application process and in their employment. Although the City is responsible for providing reasonable accommodation, the responsibility for identifying whether accommodation is needed and what constitutes a reasonable accommodation is shared jointly by the employees and the City. Employees must engage in candid, open discussions with their supervisors or other designated City representatives in order to facilitate the City's compliance with applicable disability discrimination laws. Questions about reasonable accommodations and disability status and request for accommodation forms may be referred to the City Clerk.

In the event that any provision in these personnel policies conflicts with any federal, state or local law regarding equal employment opportunity, such provision shall be amended to comply with the existing law.

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3. ORGANIZATIONAL CHART

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4. EMPLOYEE CLASSIFICATION

4. A: Elected Officials

The West Virginia Constitution and State Code prescribe the duties and responsibilities of elected officials. It shall be the elected officials' duty to make these policies and procedures known to their staff and to see that they are practiced.

4. B: Administrative Officers

The following are the administrative officers of this City: Clerk, Treasurer, Operations Manager, Fire Chief, and Police Chief. They are appointed and serve in accordance with appropriate provisions of City Code. The Mayor may establish the procedure by which they report hours worked.

4. C: Full-time Regular Employees

Employees who work 40 hours each week, year-round, shall be considered full-time, regular employees after successfully completing the required ninety-day period of probationary employment and being approved by Council. Such employees are then eligible to utilize all benefits available.

4. D: Temporary Employees

Employees who work less than 40 hours per week for a time not to exceed three consecutive thirty-day periods of work days or for a specific task shall be considered temporary employees. These employees shall be appointed by administrative officers and approved by the Mayor and overseeing council committee to carry out necessary seasonal or temporary work. Since these employees are not entitled to fringe benefits, extensions should be carefully considered and if the services of the individuals are necessary, full-time employment should be considered.

Except in unusual circumstances, temporary employees are paid at the minimum level (less 5%) of the departmental position level applicable to the job for which they are hired. Retention of a temporary employee beyond the previously mentioned ninety-day period of employment shall require recommendation of the administrative officer and approval of the Mayor. In the event a temporary employee is granted full-time employment, and employment has been continuous, he/she shall receive up to three months credit for personnel evaluations and for leave credit.

4. E: Part-Time Regular Employees

Employees who work less than 20 hours per week, year-round shall be considered part-time, regular employees. They do not receive benefits. Part time employees are eligible for over time. However, they are prohibited from working over 1,039 total cumulative hours (regular plus overtime), per year. The Payroll Clerk will monitor the cumulative hours of part-time regular employees each year. Upon such employees reaching 800 hours worked in a given year, electronic or written notification will be made to the relevant administrator, the part-time employee's supervisor, and the chair of the Personnel Committee.

4. F: Start-Up Employees

1. All new employees listed in Section C shall serve a ninety-day probationary period, during which they will receive compensation at the full rate associated with the given position. Health insurance benefits will begin on the first day of the month after the employee is hired. An incentive plan is available whereby employees can receive a cash payment in exchange for waiver of coverage under the city's health insurance plan. Other benefits (e.g., annual leave and sick leave) during the ninety-day probationary period will accrue but cannot be used until the end of the ninety-day probationary period. If a start-up employee is required to be absent from work during the probationary period due to emergency or other reasons, the probationary period will be extended for the number of days equal to the time absent. Civil service employees are subject to a probationary period of employment of one year; however, civil service employees shall be entitled to utilize other benefits (e.g., annual leave and sick leave) upon completion of the same ninety-day period imposed on common law employees.
2. All new full-time employees shall be required to submit to a hearing test, during the ninety-day probationary period of employment. The cost of the test shall be borne by the City. Additionally, newly hired full-time employees shall be subject to a criminal background check, a check of driving record and drug testing. Refusal to submit to testing or unsatisfactory results of testing shall be grounds for termination.
3. Personnel employed during a pay period will be credited with annual leave and sick leave as follows:
 - a. 1-3 days: one third of entitlement
 - b. 4-6 days: two thirds of entitlement
 - c. 7 or more days: all of entitlement.
4. Employees who are promoted or transferred shall be required to serve a ninety-day evaluation period in the new job. RATIONALE: This evaluation period is designed to acquaint the new employee with his/her higher-rated position and allow the department supervisor to measure the employee's ability and aptitude for the job. If the employee's performance is inadequate, he/she may be discharged or reassigned to another position at any time during the evaluation period. Such action is subject to appeal by the employee. The department supervisor shall notify the employee in writing of the reason(s) for any action at least seven (7) calendar days prior to the effective date of termination or reassignment. If the department supervisor wishes to hire the person after completing the ninety-day evaluation period, or promote to a new job, the administrative officer will give written recommendation to the Mayor, who will docket it for Council approval.

NOTE: Successful completion of any employee's period of evaluation will not alter any employee's at-will status.

4. G: Temporary Assignment

From time to time, an employee may be assigned on a temporary basis to perform either (1) the significant duties of a higher position level or (2) along with his or her regular duties, the significant duties of any other employee, regardless of position level. On the 6th consecutive day of such an assignment, the employee performing these additional significant duties may receive 5

percent above his/her present pay rate with the approval of the appropriate administrative officer. This does not apply at the supervisory level unless duties are performed for a period longer than five consecutive days and the acting supervisor performs all the duties of the supervisor.

4. H: Extra Help Employment

Occasionally, circumstances exist where extra help is required for one-time projects, illness, or periods of short staffing. In such instances, the administrative officer, with the approval of the Mayor, may take action to hire such help. Payment for such work shall be on an hourly basis, at an hourly rate five percent (5%) less than the paid rate to full-time employees, and normally for a period of less than a 40-hour work week. Benefits are not available for extra help employees, except those specifically mandated by federal and/or state government. The administrative officer shall be responsible for notifying the Mayor's office of the hiring and shall deliver his written approval of the hiring for inclusion in the employee's personnel file. Except in unusual circumstances, temporary help will be employed for periods of less than 30 days.

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5. SALARIES & WAGES; BENEFITS; & DEDUCTIONS

5. A: Salary & Wage Administration

The City intends to fully comply with all state and federal requirements concerning the payment of salaries and wages. The City will pay its employees every other Friday for a period of time consisting of fourteen (14) consecutive days beginning at 12:01 a.m. Sunday and ending at 12:00 midnight Saturday immediately preceding the pay date. If a payday falls on a Friday that is a legal holiday, then the payroll date will be on Thursday. Direct deposit is available and encouraged. Authorization forms may be obtained from the Payroll Clerk.

5. B: Workers' Compensation

Each employee will be provided with workers' compensation coverage against events of occupational injury, occupational illness, or death occurring in the course of employment. Employees pay nothing for this coverage. Employees must notify their immediate supervisor and file an accident report as soon as possible in the event of a work-related injury, illness, or near miss, but in no event should notification be delayed longer than twenty-four (24) hours. If an employee elects to receive workers' compensation pay, he/she cannot receive sick leave pay. It is illegal to receive both sick leave pay and worker's compensation pay. The employee shall be responsible for notifying the city upon commencement of workers' compensation payments.

Upon the return to work of an employee who received workers' compensation benefits, the Consolidated Public Retirement Board (CPRB) will allow credited service toward retirement for the period of workers' compensation coverage. In order to receive such credited service, the CPRB must have verification of the date of injury and the time period in which compensation was paid to the employee.

During periods of workers' compensation coverage, it shall be the responsibility of the employee to pay all insurance-related or other benefit payments or copayments to which he/she is normally subject.

5. C: Unemployment Compensation

Employees who meet the criteria established by the West Virginia Department of Employment Security may be eligible for unemployment benefits upon the termination of their employment. The City does not determine eligibility for benefits. However, the City reserves the right to protest a claim for benefits if such action is deemed warranted. The City is self-insured for the purposes of unemployment compensation.

5. D: Insurance Plans

All full-time employees are eligible to participate in the State of West Virginia's group medical insurance plan or such plan to which the City may subscribe. The City Council will determine how much of the medical insurance premium cost for employees will be paid by the City, and how much of a co-payment employees will be required to contribute towards their premiums.

Tobacco users shall pay an additional surcharge to defray the higher costs of their insurance coverage.

The cost of \$10,000 of basic life insurance is paid by the City for each full-time employee. If an employee wishes to have additional coverage, he/she may purchase additional optional life or accidental death insurance policies and have the premiums deducted from his/her payroll check.

Details concerning insurance coverage will be explained by the Payroll Clerk at the time of employment. Coverage for health and life insurance begins the first day of the month following employment.

If an employee does not choose to participate in the health insurance plan, he/she will receive one-half the cash value of the benefit less any employer fringes paid by the City for employees who choose to participate in the plan. The payment will be divided by 26 pay periods and paid bi-weekly through payroll.

5. E: Travel for Official Business and Training Seminars

It is expected that employees will participate in professional development as appropriate. Employees' supervisors and the appropriate administrative officer must approve, in advance, the purpose and cost of out-of-town travel.

Acceptable purposes for out-of-town travel are:

- Official city business.
- Training courses, seminars, and similar events that are job related and/or required for validating certifications or maintaining/improving qualifications for the job position to which the employee is assigned.

Travel for training courses or other purposes with no direct relation to city business or the employee's job duties will not be at the City's expense.

Procedures for attending training courses or seminars:

- a.) An employee desiring to attend a training course, at the City's expense, shall submit a request to his/her supervisor. Such request shall be submitted sufficiently in advance to allow time to adjust work schedules and arrange coverage on the job.
- b.) The supervisor will forward the form and his/her recommendation to the appropriate administrative officer for review and approval. If the administrative officer disapproves the request, no further action shall be taken and his/her decision shall be final.

Business travel within the State of West Virginia, which is approved in advance as described above, will be reimbursed pursuant to the following guidelines:

- All reimbursements will be made to the person authorized to make the expenditures.
- Reimbursements will be made in a timely fashion based on submission of an approved expense report. Expense reports must be submitted within 30 days of the approved travel/training in order to be paid. The expense report shall be supported by receipts or other appropriate documentation.

- Mileage reimbursement for authorized use of private vehicles is at the same rate utilized by the State of West Virginia. Mileage is calculated round trip from the City building.
- Daily meal allowance for in-state travel is reimbursable for actual expenses incurred for food, service and any gratuity of 15% or less, not to exceed \$36.00 per day. For uniform reporting, a breakfast should be no more than \$8.00, lunch should be no more than \$12.00, and the evening meal should be no more than \$16.00; for a total of \$36.00 per day. The foregoing is illustrative and only for use when charging individual meals (e.g., one lunch or one breakfast). The daily allowance may be used for one evening meal on an authorized day-long trip that exceeds the normal 8-hour work day. All meal receipts showing actual totals must accompany the expense report form and must be filed within 30 days of the approved travel/training. In cases where a meal(s) is included as part of a registration, the meal per diem will not be paid.
- Where there is a conflict or a special situation, the Mayor will decide on a case-by-case basis the possibility of covering additional expenses.
- The practice of receiving cash advances for authorized travel is an alternative to personally paying and then being reimbursed for expenses. This practice is discouraged, but is available in exceptional circumstances. Administrative Officers desiring cash advances for their staff must make a written request for the cash advance and must include an accurate estimate of anticipated expenses. This request must be made well in advance of the check being issued prior to the travel taking place. An expense report, with receipts attached, must account for all monies advanced, and any remaining balance must be returned to the City Treasurer within five (5) working days after the employee's return from the business-related travel.
- The responsibility for accurate record keeping rests with the traveler, and it is necessary to maintain good clear reporting for auditing purposes.

Reimbursement for any travel outside the State of West Virginia must be discussed at the time pre-authorization for the travel is sought. Any questions in this regard should be directed to the City Treasurer's Office.

5. F: Wage Assignments

Generally, the City does not make wage assignments to employees. While loans will not be made to employees under any circumstance, wage assignments may be made under the following conditions:

1. The money is to be used for the purchase of clothing or equipment worn or utilized in the performance of the employee's duties (e.g. boots, protective clothing, firearms, etc.).
2. If a wage assignment is made, the employee will be required to sign a wage assignment form confirming the employee's understanding that the wage assignment will be deducted from future pay(s) on a regularly scheduled basis.
3. Wage assignments must be repaid within one year. If, in the event of termination or resignation, payment must be paid in full prior to the employee's final day of employment with the City.

5. G: Retirement Benefits

Most City employees participate in the West Virginia Public Employees Retirement System, administered by the West Virginia Consolidated Public Retirement Board. Civil service police and fire personnel participate in their own separate retirement plans.

6. POLICY STATEMENT REGARDING DRUGS AND ALCOHOL IN THE WORKPLACE

See attached Appendix A.

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7. EMPLOYMENT ELIGIBILITY VERIFICATION (FORM I-9)

Prior to assuming duties, new employees shall execute an Employment Eligibility Verification Form (I-9). The current verification form is included as appendix b to these policies; however, it will be subject to future modification as changes are made by the Department of Homeland Security or other appropriate federal agencies.

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8. WORK AND PAY SCHEDULE AND POLICIES

8. A: Normal Operations

The normal workweek shall be from 12:01 a.m. Sunday through midnight the subsequent Saturday. Most city hall employees will be scheduled Monday through Friday from 8:00 a.m. to 4:30 p.m. with one half (1/2) hour for lunch; however, city hall supervisors may request a modification of scheduled work hours for their employees. With the Mayor's recommendation, such requests can be approved by the Personnel Committee. Work times for Operations Division departments vary; all employees shall receive thirty unpaid minutes for lunch. If an employee clocks in or out at any time that falls inside a quarter of an hour, their time will be rounded to the nearest fifteen minutes. Seven (7) minutes and less will round to the earlier quarter hour, while eight (8) minutes and more will round to the later quarter. (Examples: 8:07 is rounded to 8:00. 8:08 is rounded to 8:15; 12:52 is rounded to 12:45 and 12:53 is rounded to 1:00).

8. B: Overtime Policy

When overtime is authorized by a supervisor, the pay for hours actually worked in excess of forty (40) in any one work week is one and one-half times the regular rate. In computing the basic 40 hours, time not on the job due to annual leave, holidays, or illness will be excluded. A holiday worked within the 40-hour week would be counted.

8. C: Call-out Policy

When an hourly off-duty employee is called upon to work outside of his/her regular hours, the employee shall receive:

1. Overtime pay at time and one-half for the hours actually worked on the call-out; plus
2. A call-out allowance at the regular pay rate for the difference between the hours actually worked and three (3) hours.

In those cases where an employee's normal duties require his presence at varying hours during any day which are over and above his/her normal work hours and such presence is routine in the overall accomplishment of his/her duties, the call-out policy does not apply. Overtime for actual hours worked does apply providing the 40-hour per week basis is met (example: if any employee's assigned duties require him/her to check equipment frequently during other than his normal duty hours, the call-out policy does not apply).

If a call-out involves three or more hours of work, the call-out allowance shall not be payable, inasmuch as all hours worked will be at an overtime rate. When call-outs are required, they shall be apportioned as reasonably as practical among the qualified employees within the department. This call-out provision does not apply to salaried supervisory personnel exempt from overtime provisions.

More than one call-out in the three-hour time period will not constitute additional pay other than the allowed overtime pay at one-half times the regular rate of pay for the hours actually worked on the call-out plus the allowance at the regular pay rate for the difference between the hours actually worked and three (3) hours. Continuation of the employee's regular work schedule time is not considered call-out time until he/she has worked 40 hours.

8. D: Holiday Pay

Employees required to work on holidays shall receive pay at the rate of one and one-half times regular pay plus the holiday shall be counted as part of the regular work week, i.e., an employee would be paid 20 hours pay for an 8 hour work period on that day. In the event that work on a holiday is also overtime work (by reason of having worked 40 hours in a work week), no additional compensation shall be provided. Time worked on a holiday in excess of eight hours shall be compensated at the rate of the normal time and one-half or be taken as compensatory time - in such case the 40 hour per week rule must be met.

The above provisions do not apply to Administrative Officers since they do not normally receive overtime pay.

8. E: Compensatory Time

If an employee is required to work past his normally scheduled work day and such overtime is approved by the supervisor, that employee may elect to receive premium rate pay for overtime or take compensatory time in equal time basis; or, if an employee is called out, such employee has the choice of receiving call-out/overtime pay or taking compensatory time for such call-out. In no case shall an employee receive overtime pay if the actual hours worked, including the time worked over and above his normal work schedule, is less than 40 hours. Time allowed over and above actual time worked for call-out benefits may not be counted towards the 40 hour requirement. In certain cases, employees may be required to work split shifts.

Supervisors shall make every effort to encourage the maximum use of compensatory time. Decisions regarding compensatory time rest with the supervisor or policy established by Common Council. Salaried employees will be required to provide the Payroll Clerk with a written contemporaneous record of compensatory time earnings and usage; if compensatory time is taken, it will be on an hour-for-hour basis.

When using compensatory time to take time off from work, employees will be compensated at the rate of pay that is current during the period that the compensatory time is being used, regardless of their rate of pay during the period when the compensatory time was earned.

8. F: Military Leave Policy

Military leave is authorized absence from work for members of the United States Military Reserve Forces or National Guard Forces while undergoing periodic training obligations, active duty training requirements, or if called to active duty for State or Federal Service. The maximum military leave with pay authorized is thirty (30) days annually. Absence for periods in excess of thirty (30) days shall be in non-paid leave-of-absence status.

8. G: Lunch Break and Rest Periods

Employees, except members of the police force and fire department, shall be allowed 30 minutes without pay for the purpose of eating. The City requires that all employees take a lunch period during normal operations. In case of emergencies, or when the tasks being performed do not allow for an interruption of work, the departmental supervisor may authorize a waiver of this policy on a case-by-case basis.

8. H: Inclement Weather

Section H: Inclement Weather and Emergencies

Employees are expected to exercise appropriate judgment if faced with inclement weather or emergency conditions. While employees should not jeopardize their personal safety unnecessarily in order to get to work or remain on the job for the full workday, neither should they overreact to normal fluctuations in the weather.

H.1. Essential and Non-essential Employees

When the city is closed because of inclement weather or emergencies, employees are affected differently depending whether they are considered “essential” or “non-essential.” Employees in the “essential” category may vary depending on conditions; it is not possible to provide a complete list. So far as practical, supervisors should inform employees of their “essential” or “non-essential” status in advance of the arrival of inclement weather or emergency conditions.

H.1.1. Essential Employees

Essential employees are those whose work duties either involve responding to weather/emergency conditions (e.g., snow-plow or equipment operators) or cannot be suspended without posing danger to persons and/or property (e.g., emergency responders, plant operators, etc.). When the city is closed, essential employees should report for work as usual or as directed by their supervisors. For time worked during such closures, essential employees are paid as per the city’s Call-out Policy (see section C, above).

H.1.2. Non-Essential Employees

Non-essential employees are those whose work (1) does not involve responding to the particular weather/emergency condition and (2) can be suspended temporarily without posing danger to persons and/or property. When the city is closed, non-essential employees are excused from work. Non-essential employees’ pay status for those hours the city is closed is the same as when they work a normal workday, and they are not charged for annual leave, personal days or compensatory time.

H.2. Unscheduled Time Off

Because of the wide geographic area in which city employees reside, some employees may face substantially different conditions near their residences than are occurring in Elkins. The city cannot excuse some employees when the city is otherwise open. In this case, an employee has the option of using unscheduled time off. There are two different circumstances when this might occur: (1) when the city is open or, (2) for essential employees, when the city is closed.

H.2.1. Unscheduled Time Off when City is Open

When the city is open, but, in an employee’s best judgment, conditions make it unsafe to travel to work, that employee may be excused from work by using accrued annual leave, personal days, or compensatory time. Similarly, an employee already at work might decide to leave early because of worsening conditions that lead that employee to believe that it will soon be unsafe to travel home. Such an employee must also use accrued annual leave, personal days, or compensatory time.

Employees electing not to report to work under this “unscheduled time off” option must notify their supervisors no later than 45 minutes after the start of their standard workday, or as soon as possible thereafter when such communication is not possible or safe; such notice should include whether they intend to use annual leave, personal days, or compensatory time for the hours they were scheduled to work.

Employees electing to leave work early under this option must similarly document their decision and reasons to their supervisor.

Failure to provide this notification may result in the absence being considered unauthorized; disciplinary action may result.

Where possible, supervisors should allow employees to make up missed time; to avoid unnecessary overtime charges, this makeup time should occur during the same week when the time was missed unless extraordinary circumstances prevent this.

H.2.2. Unscheduled Time Off when City is Closed

If the city is closed but an essential employee believes that conditions make it unsafe to travel to work, that employee may be excused from work by using accrued annual leave, personal days, or compensatory time. Overuse of this option may result in a determination that the employee is not suited for a position considered “essential.”

H.3. Closures Announced During a Workday

It may happen that the city is open at the beginning of a workday but must be closed later, due to the onset of severe weather or other emergency conditions. In this case, as described in section H.1.2 (“Non-Essential Employees”), all non-essential employees will be excused and remain on a normal workday pay status for the period of the standard workday remaining after the announced closure time; they will not be charged for annual leave, personal days, or compensatory time. (After the closure announcement, essential employees will operate as described in section H.1.1., “Essential Employees.”)

In the situation in which a closure is announced after the start of a standard workday, there might be some employees who will have already made the individual determination to either stay home or to depart from work early because of weather or emergency conditions (i.e., as described in section H.2.1., “Unscheduled time off when the city is open”).

Employees who, before a closure was announced, requested unscheduled time off because of weather or emergency conditions will be charged for annual leave, personal days, or compensatory time for all time missed *before the closure announcement*. Starting at the announced closure time, they will stop being charged for annual leave, personal days, or compensatory time and return to a normal workday pay status for the remaining period of the standard workday.

H.4. Delayed Openings

When conditions require delaying the start of the workday, non-essential employees will be excused and essential employees must report, as described in sections H.1.1 “Essential employees” and H.1.2. “Non-essential employees.”

H.5. Employees Unavailable for Work

During a closure, early closing, or delayed opening, the status of any employees who are already absent due to illness or on previously scheduled time off will not be affected. They will be charged either for medical leave, annual leave, personal days, or compensatory time, as previously planned.

H.5. Closure Announcements

There are several ways that a closure may be announced. All of the following will constitute announcement of a closure, excusing non-essential employees without charges against annual leave, personal days, or compensatory time and triggering call-out pay for essential employees who report for work:

1. Announcement by the mayor that city hall is closed or will be opening late due to weather or citywide emergency conditions. (Closure or delayed opening of the city hall building because of internal conditions, such as a burst pipe or loss of heat, will only affect employees assigned to work inside city hall.)
2. Declaration by the mayor of a state of emergency for the City of Elkins.
3. Announcement by Randolph County officials that the Randolph County Courthouse is closed due to city/countywide weather or emergency conditions.
4. Declaration of a countywide state of emergency by Randolph County officials.
5. Declaration by the governor of a statewide state of emergency.
6. Declaration by the governor of a state of emergency for Randolph County or the City of Elkins.
7. Announcement of delayed reporting for state employees, either statewide or in Randolph County. (In this case, city employees will be expected to report at the announced reporting time for state employees.)

Employees are advised that the governor or other state or local officials may make public statements that include the word “emergency” *without actually declaring a state of emergency*.

For example, the governor may make a statement to the effect that “non-emergency travel should be suspended.” Such announcements *do not* constitute declaration of a state of emergency; unless *state employees* are being explicitly ordered not to report for work, either statewide or in Randolph County, these announcements *do not* constitute closure announcements for City of Elkins personnel.

In the event of any declaration of a state of emergency, city hall will be closed for either:

1. The remainder of the current workday (if the state of emergency is declared during a workday), or
2. The next full workday (if the state of emergency is declared outside of city hall’s regular business hours; but see exception below).

Exception: a state of emergency declared between 4:30 p.m. on a Friday and 4:30 p.m. on the following Sunday will not trigger an automatic closure of city hall; in such cases, the mayor will

announce any closures related to the circumstances that triggered the state of emergency. However, in the case of states of emergency declared during or extended to include weekends and/or holidays, essential employees normally assigned to weekend or holiday work hours (e.g., water and wastewater plant operators and wastewater collection employees) will receive call-out pay for any such hours worked while other employees are earning call-out pay for work assignments related to hazardous weather conditions (e.g., snowplow operators).

After the first workday on which a closure has been triggered by a state of emergency (as described above), and after local conditions have been evaluated, the mayor will announce either any further closures or the time of the reopening of city hall. Essential employees will receive call-out pay for hours worked between the effective time of any state-of-emergency declaration and any subsequent reopening of city hall, as announced by the mayor. (For other circumstances in which call-out pay is received, please see section 8.C of this manual.)

As usual, if local conditions make it unsafe to travel to work, employees should exercise the “unscheduled time off” options described above.

Closure announcements will be made over the following communication channels:

- Homepage of city website: www.cityofelkinswv.com
- City Facebook page: www.facebook.com/ElkinsCityHall
- City Twitter feed: www.twitter.com/ElkinsCityHall

We will also supply any such announcements to local media outlets.

8. I: Civic Duty

1. Jury duty

Employees summoned for jury duty should notify their supervisor as soon as possible.

The City shall pay the employee his/her regular wages for the time served on jury duty. A slip verifying attendance must be produced prior to deadlines for the applicable payday. If an employee is released from jury duty and can work any part of the normal workday or workweek, the employee shall do so. No jury pay will be paid if this requirement is not met.

2. Voting

The City encourages all employees to exercise their important right to vote. Polling places are usually open for such extended periods that it should not be necessary for employees to miss work in order to vote. Time away from work for this purpose will not be compensated.

3. Civic Groups

The City encourages employees to participate in and support civic and charitable organizations and events, so long as their activities and goals do not conflict with the City’s charter and mission. Employees may request time off for recognized activities, but this time will not be compensated.

4. Political Activity

Partisan political activity (campaigning) for any candidate or issue will not be permitted on City property or during an employee's work time. This prohibition applies to all employees, invitees, and any other third parties.

5. Legal Proceedings

Employees will be granted reasonable amounts of time off for legal proceedings. When subpoenaed as a witness, the employee should give his/her supervisor as much advance notice as possible. Time spent testifying in court or responding to a subpoena will not be compensated unless the City issued the subpoena or the litigation is City-related.

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9. SICK DAYS; ANNUAL & FUNERAL LEAVE; LEAVE DONATION

9. A: Sick Days

Sick leave is to be used for the following purposes only: (1) Personal injury or illness; (2) medical and dental appointments for employees and, to a limited extent, their dependents; or (3) illness of an immediate family member or domiciliary requiring recuperative care. If you meet the requirements for the Family Medical Leave Act, see section XI.

Sick leave must be reported as such to the employee's supervisor as early as possible before the shift is to begin, but in no event later than fifteen minutes from the start of any day (day shift) in which illness occurs (with the exception of dire emergency situations).

Sick leave will be accrued at a rate based on five hours per pay period for full-time employees. Sick leave may be accumulated from year to year with no limitation on time carried over, but may only be used for the reasons specified above. In order to be paid for sick leave, an employee is required to present a valid physician's excuse when he/she has been absent for three (3) or more consecutive days before returning to work; annual leave will be charged in the absence of the required physician's excuse.

Sick leave is not to be regarded as a form of additional compensation, and no employee will be entitled to pay in lieu of sick leave upon termination of employment.

9. B: Annual Leave Days

Annual leave time may be used during the year in which it is granted for start-up and full-time employees. During probationary periods for new employees, the benefit will be accrued but may not be utilized during the probationary period.

Annual leave shall be granted according to the following schedule:

| <u>Length of Service Time</u> | <u>Hours Credited Per Pay</u> | <u>Total Annual Accumulation</u> |
|-------------------------------|-------------------------------|----------------------------------|
| 0-2 years | 3 | 78 hours (9 days, 6 hours) |
| Over 2 thru 5 years | 5 | 130 hours (16 days, 2 hours) |
| Over 5 thru 9 years | 6 | 156 hours (19 days, 4 hours) |
| Over 9 thru 14 years | 7 | 182 hours (22 days, 4 hours) |
| Over 14 thru 25 years | 8 | 208 hours (26 days, 0 hours) |
| Over 25 years | 9 | 234 hours (29 days, 2 hours) |

The employee hire date will constitute his/her anniversary date, and annual leave eligibility will be calculated as of the employee's anniversary date; except that first year employees will be permitted to take two (2) days of annual leave during their second six (6) months of service. The term "year" as used above, shall refer to the twelve-month period running from anniversary date to anniversary date. Any exception to the above must be approved in writing by the employee's supervisor.

Each employee shall arrange an annual leave schedule with his/her department head or supervisor as early in the year as possible. Employee's preferences as to annual leave schedules will be honored as much as possible; however, annual leave schedules shall be arranged in such a manner as to avoid impairment of the department's operations. Each department head shall have the final authority to determine individual annual leave schedules.

Annual leave shall be credited during all periods of paid employment. Absences from work in an authorized paid status, such as annual leave, jury leave, sick leave, funeral leave and military leave up to thirty (30) days are creditable for leave accrual purposes. Reserve or National Guard personnel who are ordered to active duty for periods in excess of thirty (30) days will not accrue leave during such absences. Employees absent from work in an unauthorized status for two or more days will not accrue leave during such absence.

Personnel employed or personnel who terminate employment during a pay period will be credited with annual leave as follows:

| <u>Normal Days Worked During Pay Period</u> | <u>Leave to be Credited For Pay Period</u> |
|---|--|
| 1 to 3 days | 1/3 of entitlement |
| 4 to 6 days | 2/3 of entitlement |
| 7 or more days | 100% of entitlement |

Annual leave accumulations shall be limited; however, the following provisions shall apply in the granting of leave:

No employee shall be authorized more than twenty (20) days of continuous leave. The maximum leave that may be taken in a calendar year shall not exceed the amount of leave earned in 26 pay periods (1 year) by more than 5 days (Example: (1) an employee who earns 29 days in one year may take a 20-day leave and an additional 14 days during the calendar year for a maximum of 34 days, if earned. (2) an employee who earns 9 days leave in one year may take no more than 14 days in a calendar year, the amount earned plus 5 days from a previous year.

On termination of employment, an employee may be compensated for unused accrued annual leave up to the maximum amount earned in a 12-month period (26 pay periods).

Accrued leave may be granted in increments of one (1) hour or more, and it may be taken by the employee for whatever purpose he/she desires. However, all leave granted must be approved by the employee's supervisor on a leave request form. Annual leave may be used while absent due to illness if all accrued sick leave has been exhausted.

Once an employee has commenced annual leave, he/she will not be permitted to have any portion of that leave charged to sick leave. Example: an employee is granted forty (40) hours of annual leave, and becomes ill on the third day of leave with such illness lasting just one day – the employee will be charged annual leave for the entire five days as opposed to four days of annual leave and one day of sick leave. Under the same circumstance, if the employee's illness persists and he/she provides necessary proof of illness then such period of illness may be charged against sick leave. In such case, the employee is expected to terminate the remainder of annual leave granted and return to work on completion of sick leave.

There are no provisions for granting annual leave in advance of the leave being accrued.

Employees taking the minimum amount of annual leave may exclude the authorized lunch break in computing amount of leave taken. Example: an employee taking the first four hours of his/her normal work day may be absent for the four hours plus the normal time allotted for lunch.

9. C: Funeral Leave

Up to three (3) days of paid leave will be granted in the event of a death in the immediate family. Immediate family members are defined as including the employee's spouse, parent, step-parent, spouse's parent, brother, sister, son, or daughter. One day of funeral leave will be granted on the day of the funeral for other family members. Other family members are defined as including aunt, uncle, grandparent, brother-in-law, or sister-in-law.

If the distance travelled to attend a funeral or memorial service creates a hardship for the employee, the Mayor may approve a leave of longer than three (3) days when an immediate family member dies; however, the employee must use either annual leave or family sick leave.

In the event of the death of a current city employee whose funeral or related observances are scheduled to be held during working hours, employees who worked in the same department as the deceased employee shall be granted one day of funeral leave to attend the funeral or related observances, as operations permit.

9. D: Leave Donation

Full time employees of the City of Elkins are eligible to participate in a voluntary Leave Donation Program under which leave accumulated by an employee may, if voluntarily agreed to by the employee, be transferred as donated leave to another designated employee if the requesting employee has exhausted all available paid leave due to a medical emergency.

For the purpose of this program, a medical emergency is defined as a medical condition of the employee or an immediate family member of the employee (as defined in the City of Elkins personnel Policy) that will require the prolonged absence of the employee from duty and will result in a substantial loss of income to the employee because the employee will have exhausted all paid leave available apart from the Leave Donation Program. The Leave Donation Program Policy and Procedures are attached as Appendix D to this Personnel Manual.

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10. HOLIDAYS AND PERSONAL DAYS

10. A: Holidays

The following days will be recognized as paid holidays for employees:

- New Year's Day (January 1 of each year)
- Martin Luther King's birthday (third Monday of each January)
- Presidents' Day (third Monday of each February)
- Good Friday
- Memorial Day
- West Virginia Day (June 20 of each year)
- Independence Day (July 4 of each year)
- Labor Day (first Monday of each September)
- Veterans' Day (November 11 of each year)
- Thanksgiving Day (fourth Thursday of each November)
- Christmas Day
- Personal Day One
- Personal Day Two

If a holiday otherwise described in this section falls on a Saturday, then it will be observed on the preceding Friday; if a holiday otherwise described in this section falls on a Sunday, then it will be observed on the following Monday.

In addition to the holidays specified above, holidays shall be observed on any days in which an election is held throughout the state, and any such other day as the Mayor and Council shall proclaim to be a legal holiday.

In addition to the paid holidays described above, City Hall is closed on the day after Thanksgiving and closes at noon on Christmas Eve and New Year's Eve. These are not paid holidays, however. During these closures, and with the approval of their supervisors, City Hall employees whose job duties permit may take time off by using any accrued annual leave or compensatory time. Personal days may also be used for the day after Thanksgiving, might be eligible for use for Christmas Eve (verify the annual deadline for using personal days with the Treasurer's Department), and cannot be used for New Year's Eve. (For more information on personal days, please see Section 10.B, below).

10. B: Personal Days

Employees hired before the first day of January of each calendar year shall be entitled to two personal days per year. With prior approval of the supervisor, the personal days can be used at

the employee's discretion. For this purpose, civil service firemen will receive one personal shift in lieu of two personal days. Personal leave must be used no later than the last pay of December of each year.

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11. FAMILY AND MEDICAL LEAVE

Family and medical leave will be provided to eligible employees in conformity with the Family and Medical Leave Act (FMLA). Calculations of FMLA usage shall be made on a calendar year basis. Usage of family medical leave shall run concurrently with other types of leave (e.g., annual and sick leave). Eligible employees may take up to a maximum of twelve (12) weeks of leave during a twelve-month period for any of the following reasons:

- a. Birth, adoption, care of a newborn child or placement of a child in foster care;
- b. Care of a spouse, parent, son, or daughter with a serious health condition;
- c. A serious health condition that results in the employee's inability to perform the functions of his/her job.

Leave shall normally be continuous, except that leave for the care of a child, spouse, or parent with a serious health condition; or due to the employee's own serious health condition may be taken intermittently or on a reduced basis when medically necessary. Any absence incurred as a result of a compensable workers' compensation claim will run concurrently with the employee's FMLA leave.

Definitions

Eligible employee: one who has worked for the City for at least twelve (12) months and has worked at least 1,250 hours during the twelve (12) months immediately preceding the requested leave.

Serious health condition: an illness, injury, impairment, physical or mental condition that involves (a) patient care, including subsequent treatment related to the inpatient care, or (b) continuing treatment by a health care provider. Continuing treatment is defined as (1) multiple treatments by a health care provider for a condition that would likely result in a period of incapacity of more than three consecutive days if untreated, (2) any period of incapacity requiring absence from work, school, or other regular activity for more than three calendar days that also involves treatment by a health care provider two or more times, or which results in a supervised regimen of continuing care, including subsequent treatment for the same condition, (3) any period of incapacity or treatment for such incapacity for a chronic or long-term health condition, (4) any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective, or (5) incapacity due to pregnancy or prenatal care.

Medical necessity: certification by a health care provider that a medical need for leave can best be accommodated by an intermittent or reduced leave schedule and outlining the expected duration and schedule of the intermittent or reduced leave.

Key employee: a FMLA-eligible employee who is among the highest paid ten (10) percent of the employees employed within seventy-five (75) miles of the employee's worksite.

Where a term is defined in the FMLA and/or accompanying regulations, that definition will be incorporated into this policy.

Policy

1. Employees will be required to utilize their paid leave prior to receipt of unpaid FMLA leave, i.e., paid annual leave and personal time for leave taken pursuant to (a) and (b) above, and paid sick, annual leave, and personal time for leave taken pursuant to (b) and (c) above. The period of this paid leave will be counted against the employee's total FMLA entitlement.
2. Employees must give thirty (30) days advance notice of the need to take FMLA leave. When it is not possible to give thirty (30) days advance notice, notice must be given as soon as practicable – ordinarily within one or two days.
 - a. Failure to give adequate notice as outlined above may result in a delay of up to thirty (30) days before FMLA leave will be granted.
 - b. When requesting intermittent leave for medical treatments, employees must make reasonable efforts to schedule the leave so as not to unduly disrupt operations.
3. Employees must provide medical certification from an appropriate health care provider to support a FMLA request related to a serious health condition on a form, which will be provided to the employee (see copy of form at Appendix C). This certification must be returned within fifteen (15) days under normal circumstances. If an employee provides a medical certification that is questionable or inadequate, he/she will be referred to a second provider at the City's expense. If the first and second opinions differ, a third opinion will be obtained, again at the City's expense. The third health care provider will be selected by mutual agreement of the employee and the City, and that opinion will be final and binding.
4. Employees of FMLA leave will be required to submit monthly re-certifications or updated reports regarding the family member or employee's current status. Employees must give two weeks of advance notice of their intent to return to work. In the event of such circumstances, notice must be provided at least two business days prior to the employee's return to work.
5. In most cases, an employee returning from FMLA leave will be restored to the position previously held prior to FMLA leave, provided that position remains available. If that position is unavailable, the employee will be reinstated to an equivalent position with equivalent pay, benefits, and other terms and condition of employment. An employee taking FMLA leave is not entitled to any greater right to reinstatement or other benefits than if continuously employed during the leave period. Key employees may be denied job restoration if such denial is necessary to prevent substantial and grievous economic harm to the operation of business.
6. If FMLA leave is taken on a reduced or intermittent basis, the employee may be transferred temporarily to an available alternative position for which the employee is qualified and which better accommodates the recurring periods of leave.
7. An employee taking a FMLA leave due to a serious health condition must present certification that he/she is fit for duty prior to reinstatement. Failure to provide the requisite certification will result in denial of restoration to employment.

11. C: Health Care Benefit Continuation

Health insurance coverage will continue throughout the duration of a FMLA leave. The conditions under which such coverage is provided will be the same as if the employee were actively working.

1. The employee's share of any health plan premiums must continue to be paid by the employee while on a FMLA leave, and payments are due at the same time as if made by a payroll deduction.
2. If an employee's share of any health insurance premium or other optional coverage is delinquent for more than thirty (30) days, the employee's health coverage may be terminated. If coverage is not terminated and the City elects to pay the entire premium, the amount of the employee's delinquency will be recovered from the employee after he/she returns to work.
3. If an employee fails to return to work after a FMLA leave has expired, the City may recover the cost of any premiums it paid during the employee's unpaid FMLA leave unless the employee's failure to return to work is the result of (a) the continuation, recurrence, or onset of a serious health condition that would entitle the employee to FMLA leave, or (b) other circumstances beyond the control of the employee. An employee who does not return to work for at least thirty (30) calendar days is considered to have failed to return for purposes of this paragraph.
4. If a key employee is notified of the City's intent to deny restoration of employment, the key employee will continue to be entitled to maintenance of health benefits until such time as the key employee gives notice that he/she no longer wishes to return to work, or restoration is actually denied at the end of the leave period. Premium costs paid on behalf of key employees in such circumstances are not recoverable.

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12. GRIEVANCE PROCEDURE

A grievance is a request by an employee or group of employees, acting as individuals, for personal relief in a matter, which is subject to the control of the municipal government. It may include any dispute or disagreement about any term or condition of employment including safety on the job. All employees have the right to communicate with, and to seek advice from, others if they have a valid reason for not consulting their immediate supervisor; the right to present a grievance without fear of reprisal or interference; the right to represent themselves or to be represented by a co-worker; the right to have a reasonable amount of official time to present a grievance at any level of the grievance review system, including directly to the appropriate state agency (where applicable), without fear of reprisal.

All grievances should be settled at the lowest possible organizational level and in the shortest amount of time possible. An employee or group of employees may present such grievance either formally or informally, as follows:

- a) Present the grievance, providing all facts and circumstances, either orally or in writing to his/her immediate supervisor.
- b) The supervisor will, within two working days, provide a response to all reasonable complaints. If a solution is not achieved, the supervisor will, at that time, discuss the problem with the appropriate Administrative Officer and provide that person with all relevant background information and any recommended solutions.
- c) The employee or group of employees may present the case directly to the Mayor. This presentation may be orally or in writing, depending on the nature of the grievance. If no solution is achieved at this level of review, the employee or group of employees shall, if desired, present the grievance under the procedure established for formal presentation set forth in paragraphs d) thru f) below.
- d) Complete a City Grievance Form (see appendix c). Care should be taken to include all relevant facts and circumstances, reflecting dates, times, names of witnesses, and any other information having a bearing on the case. Additionally, indicate what action – if any – was taken or recommended by the supervisor, and why such action or recommendation is not adequate.
- e) Forward the completed form to the Mayor's office within five (5) days from the date of the aforesaid supervisor's response to the grievance for the Mayor's review and action.
- f) The Mayor shall review the case, may have the case investigated, and will normally provide a reply to the parties concerned within five (5) days of receipt of the completed form.

If a civil service employee does not agree with the Mayor's decision, he/she may have the right to present the grievance to the appropriate state agency. If the latter recourse is taken, the Mayor will provide details on the procedure.

This policy and procedure does not prevent employees from exercising any constitutional rights they may have to utilize the judicial system.

All records, including investigation reports, grievance forms, memoranda, and actions taken on each official grievance filed within the municipal government will be maintained in the employee's personnel record. The fact that an employee filed a complaint or grievance will not be considered in future personnel actions.

13. DISCIPLINARY POLICY

If an employee's behavior or conduct is such that his/her supervisor believes that disciplinary action should be taken; the supervisor will make a written record of the pertinent circumstances on a disciplinary form and discuss it with the employee. The employee and the supervisor will both sign the form indicating that the matter was discussed. If an employee disagrees with the disciplinary action, the employee may take the necessary steps to appeal the supervisor's decision as outlined in the Grievance Procedure section.

The City will administer discipline in a progressive manner; that is, some disciplinary infractions will result in Level 1 discipline (oral warning), Level 2 discipline (written warning), Level 3 discipline (suspension without pay), and Level 4 discipline (discharge). However, some offenses are so serious as to warrant suspension without pay or discharge for a first offense and the City reserves the right to administer initial discipline at any level commensurate with the City's view of the nature or severity of the offense(s).

NOTE: The following lists are not all-inclusive, nor complete, but merely are given as *examples* of some of the most common forms of employee misconduct.

Section 1. Examples of offenses that could result in an oral warning for the first offense, a written warning for the second offense, and suspension without pay or discharge for subsequent offenses:

- a) Chronic tardiness
- b) Unauthorized absences from the job or work area
- c) Foul and abusive language
- d) Inefficiency or negligence in the performance of duties
- e) Chronic inability to work with others

Section 2. Examples of offenses that could result in immediate discharge or suspension without pay:

- a) Sleeping on the job
- b) Three days of absence without notification to the appropriate supervisor
- c) Excessive absenteeism defined as more than two unauthorized absences within a 60 day period.
- d) Harassment of any kind
- e) Intoxication or illegal drug use while on the job or reporting for work, or entry on City premises while under the influence of any intoxicant or controlled substance

- f) Assault of a fellow employee, official, individual doing business with the City, or a member of the general public, while at work or representing the City of Elkins, West Virginia
- g) Theft
- h) Refusal to perform assigned lawful tasks or performing in an insubordinate manner
- i) Destruction of property
- j) Possession of firearms on City property except for unloaded firearms being legally transported in a locked personal vehicle
- k) Gross insubordination
- l) Conviction of a felony
- m) False record keeping (i.e., time cards)

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14. PERSONNEL ADMINISTRATION

14. A: Interviewing and Selection

The City is an equal opportunity employer and fills positions on the basis of an individual's qualifications and ability to perform the essential functions of the job to be filled. Entry-level positions will generally be filled by external recruiting or external applicants, in accordance with the City's equal opportunity program. Job openings above entry-level will be filled by promotion from within or filled by external recruiting.

All jobs within the city that need to be filled shall be posted. The posting shall last no less than five days. The posting can be internal, external, or both, but must be posted at least internally. Any qualified full time city employees that apply for a new position shall be granted an interview, however the person hiring is not obligated to hire existing city employees. (Determination of whether a city employee is qualified for the opening shall be based on possession of required certifications, licenses, years of experience, or similar reasons. A determination that an employee is not qualified, and will not be interviewed, shall be documented to the employee with the hiring administrative officer retaining a copy of said documentation. Any employee aggrieved by such a determination retains his or her rights under Chapter 12, "Grievance Procedures.")

All postings shall include the approved job description. The posting can be a partial job description with a full description available by inquiring to the benefits coordinator. Once the candidate is hired, they shall be subject to the 90 day probationary period.

Selection decisions will be based on qualifications, ability to perform the essential functions of the job, work history, and appropriate medical, personal reference, and criminal background checks. A criminal background check investigation will be performed on all new hires. Additionally, new hires will be subject to a check of their driving license history and will be required to undergo aural, physical, and drug testing. All testing will be done at the City's expense.

Prior convictions will not necessarily bar an individual from employment, but will be considered in light of various factors including, but not limited to, the particular position sought, the nature of the conviction, and the age of conviction. If any background check or subsequent investigation reveals any misrepresentation or significant omission on an applicant or employee's part, the applicant will not be hired, and the employee will be terminated.

Immediate family members will not be hired or promoted into positions where (a) one family member would directly or indirectly supervise another family member, or (b) conflict of interest, or the appearance of a conflict of interest, would result. Employees who marry or become members of the same household after their employment may continue to be employed by the City, so long as they are not in a supervisor/subordinate relationship and/or have not created a conflict, or the appearance of a conflict, of interest. Former employees will not be eligible for rehire unless they were in good standing at the time they left the City's employ.

New hires will be required to provide proof of citizenship or legal work status in the United States, as required by the Immigration Reform and Control Act of 1986.

14. B: Performance Evaluations

Probationary employees will be evaluated by their immediate supervisor at the end of their probationary period.

14. C: Access to Personnel Files

The City will maintain a personnel file for each employee. The Payroll Clerk will have care, custody, and control over the employees' personnel files. The City will observe the following guidelines for the maintenance of personnel files:

1. There will be only one personnel file per employee. All supervisors will forward all employment records and personal information (emergency contacts, current address, and telephone number, beneficiary information, etc.) to the Payroll Clerk.
2. Medical records and information will be maintained in a separate, confidential locked file, and will be accessed and/or released in accordance with existing legal requirements. Employees may access their own personnel files, but must comply with the following procedures in order for the employee's review to take place:
 - A request must be submitted to the City Treasurer's Office in advance, and the review will be scheduled at a mutually convenient time.
 - The review will be supervised by the City Treasurer or his/her appointee.
 - Employees may copy, but may not remove any documents or other materials from their files. A reasonable charge, not to exceed the actual cost to the City, will be made for any copies made or requested by the employee.
 - An employee who believes that any file material is incomplete, inaccurate, or irrelevant may file a grievance using the regular grievance procedure.
 - Administrative officers shall have unrestricted access to personnel files of employees within their division.

15. EMPLOYEE CONDUCT AND RULES

15. A: Conduct and Appearance

City employees frequently interact with the public, are observed by the public, and serve the public. Thus, City employees are expected to be business-like and cordial at all times, and should strive not to bring discredit upon City operations.

City employees are encouraged to dress in a manner that will reflect positively upon the City, and should avoid extremes in clothing styles and personal hygiene and grooming. Those employees who have regular contact with the public are expected to dress in a manner that is normally acceptable in similar business environments. Some employees may be required to observe special dress and grooming standards, such as wearing uniforms, depending on the nature of their jobs. If uniforms are provided to employees, said uniform will be worn on the job.

Employees who do not comply with this policy will be subject to disciplinary action. If a violation of this policy entails failure to dress appropriately or maintain acceptable personal hygiene, then the employee may be sent home to correct the problem. If the employee is subject to overtime provisions of the FLSA, then time spent away from work correcting a violation of this policy will not be compensated.

15. B: Absenteeism and Tardiness

An employee's value is determined, in part, by his/her dependability. Absenteeism and tardiness are crucial measures of dependability and will be reviewed as such in employee performance evaluations.

15. C: Recording Time Worked

Employees may not punch and/or sign any time report or card (report of hours worked) except their own. Any employee found punching and/or signing the time report of another employee will be subject to immediate disciplinary action, up to and including discharge. Time worked must be recorded accurately. Any falsification of a time report, or any failure to comply with this policy, will subject the employee to disciplinary actions, up to and including discharge. Each employee must sign their time card and also have their supervisor sign the card for verification.

15. D: Employee Political Activity

Employees of the City shall serve all City residents and other public visitors equally. The political opinions or affiliations of any visitor will in no way affect the amount or quality of service received. An individual's political affiliation, preference, or opinion will not in any way influence appointment, retention or promotion as a City employee. No employee will, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration of or on account of any appointment, promotion, or proposed promotion to a position within the City.

Employees of the City will not compel or attempt to compel any assessment or subscription intended for any political purpose from other employees or from the general public. Employees of the City will not contribute money to any candidate or any political party except on a strictly voluntary and individual basis.

It is the intention of this section that all federal and state statutes and court decisions regarding permissible employee political activity are conformed to by the City.

15. E: Ethics

All City employees must comply with the provisions of the West Virginia Governmental Ethics Act. The basic principle underlying the Ethics Act is that those in public service should use their positions for the benefit of the public and not for their own private gain. For example,

- Employees may not use their agency's supplies or equipment for personal projects and activities.
- Employees and selected officials shall not work on personal projects during work hours when the City is paying them.
- Employees may not enlist their co-workers or subordinates to work on their personal projects.

The Ethics Act prohibits City employees from (1) soliciting gifts or accepting unsolicited gifts beyond a minimal value, (2) soliciting private business from subordinates, and (3) having a financial interest in any contract, purchase, or sale over which their position gives them control. Certain City personnel (elected officials such as the mayor and appointed officials who serve on boards, commissions, authorities, etc.) are also subject to a similar but more comprehensive public contract prohibition from which no exemptions are permitted, which are found in WV Code §61-10-15.

All employees shall receive a copy of *The Ethics Act: A Code of Conduct for Public Servants*. Questions about the Ethics Act and how it applies to employees should be directed to the City Clerk.

15. F: Moonlighting

City employees are not prohibited from having outside employment or engaging in personal business ventures. However, outside work or business activity shall not be considered an acceptable excuse for poor job performance, tardiness, absenteeism, or refusing to work in an employee's City position. Paid sick time may not be used to perform outside work or business activity, and fraudulent use of sick time will result in disciplinary action. If outside work or business activities cause or contribute to job-related problems, then normal disciplinary procedures will be followed to deal with such problems.

Furthermore, full-time public employees may not accept private pay for providing information or services within the scope of their public duties. Public employees are also prohibited from seeking or accepting employment with any person or business that has a matter before an agency on which they or their subordinates are taking or have, within the past twelve months, taken regulatory action. City employees who regularly wear a uniform in the course of their City employment cannot wear those uniforms in the performance of other employment; an exception

to this is the Police and Fire Departments while working public events within the corporate limits of the City of Elkins.

15. G: Security Rules and Regulations

Although most City facilities are open to the public, reasonable steps should be taken to safeguard the security of persons and property on its premises. Because members of the public have legitimate reasons for visiting City offices, employees must exercise prudence regarding their personal safety and for the protection of employee's personal property.

In order to protect the City's property, the following rules must be observed by all employees:

- Employees may enter or remain at City facilities outside of their normal working hours only with the permission of their supervisor.
- Employees may not remove City property or equipment from the premises without first obtaining permission from their supervisors. Supervisors shall keep a written record of all property and/or equipment so removed. Unauthorized use or removal of City property may result in discipline, up to and including discharge.
- With the exception of authorized law enforcement agents, employees are not permitted to possess, store, or transport weapons on City property, in City vehicles, or while on City business. An exception shall be made for unloaded firearms being legally transported in a private vehicle.
- Consistent with all applicable legal requirements, the City retains, and may exercise the right to make reasonable searches and surveillance on City property and at City affiliated functions.

Any breach of the City's security policy may subject persons or property to harm, damages, or loss. Employees should report any violations of the policy or potential problems to their supervisor or to the Mayor or to the Chief of Police. Employees are expected to cooperate with any investigation into possible violations of this policy.

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16. OFFICE TECHNOLOGY AND SYSTEMS USE

The City has established the following policy regarding access to and use of all office technology, including electronic data services and access and disclosure of voice mail and e-mail messages created, sent, or received by employees of the City. The City reserves the right to change this and other policies at any time as may be required under the circumstances.

16. A: Definitions

Electronic mail (e-mail) is defined as an office communication tool whereby electronic messages are prepared, sent, and retrieved on personal computers.

On-line service (e.g., the Internet) is defined as communication tools whereby business information, reference materials, and messages are sent and retrieved electronically on personal computers.

Document includes photographs, pictures, animations, movies, or drawings.

Display includes monitors, flat panel active or passive matrix displays, monochrome LCDs, projectors, television, and virtual reality tools.

16. B: Policy

1. The City maintains a telephone system, facsimile equipment, data processing programs, and e-mail system, and associated access to the Internet. These systems are provided by the City to assist in the conduct of business within its various departments.
2. The telephone system, computer hardware, and licensed software are the property of the City. Additionally, all messages composed, sent, recorded, or received on the telephone and e-mail systems and the Internet are, and remain, the property of the City. They are not the private property of any employee.
3. The use of the e-mail system and associated Internet use are reserved solely for the conduct of business at the City. They may not be used for personal, private, or non-business matters.
4. Employees cannot utilize the telephone system, e-mail system, or the Internet to solicit or recruit for commercial ventures, religious or political causes, outside organizations, or other non-job-related solicitations.
5. The City has software and systems in place that can monitor and record all e-mail and Internet usage. The security systems are capable of recording (for each and every user) each World Wide Web site visit, each chat, news group, or e-mail message, and each file transfer into and out of our Internet networks, and the City reserves and intends to exercise the right to do so at any time. No employee should have any expectation of privacy as to his or her e-mail or Internet usage.
6. The City reserves and intends to exercise the right to review, audit, intercept, access, and disclose all messages created, received, or sent over the voice mail, e-mail, or other on-line systems for any purpose. The contents of these systems, properly obtained for legitimate business purposes, may be disclosed within the City's operations without the permission of the employee.

7. The confidentiality of any message or information should not be assumed. Even when a message or other data is deleted, it is still possible to retrieve and read that message or data. Additionally, these messages may be subject to discovery and requests and orders in court and administrative proceedings.
8. Notwithstanding the City's right to retrieve and read any voice mail, e-mail messages, or other data transmissions, these messages should be treated as confidential by other employees and accessed only by the intended recipient. Employees are not authorized to retrieve or read any voice mail or e-mail messages or data that are not sent to them. Any exception to this policy must receive prior approval by the supervisor.
9. Employees shall not use a code, access a file, or retrieve any stored information, unless authorized to do so. Employees should not attempt to gain access to another employee's messages or data without the latter's permission. All computer pass codes must be provided to the supervisor. No pass code may be used that is unknown to the employee's supervisor. Further, the use of passwords for security does not guarantee confidentiality.
10. The display of any kind of sexually explicit image or document on any City system is a violation of our policy on sexual harassment. In addition, sexually explicit material may not be received, stored, distributed, edited, or recorded using the City's telephones, network, or computing resources.
11. The City may use independently-supplied software and data to identify inappropriate or sexually explicit Internet sites. The City may block access from within its network to those sites of which it is aware. If an employee connects accidentally to a site that contains sexually explicit or offensive material, he/she must disconnect from that site immediately – regardless of whether that site had been previously deemed acceptable by any screening or rating program.
12. Neither the e-mail system nor the Internet is to be used to display or transmit any offensive or disruptive messages. Among those which are considered offensive are any messages which contain sexual content, racial slurs, gender-specific comments, or any other comments that mention age, sexual orientation, religious or political beliefs, national origin, or disability in a derogatory manner.
13. Neither the e-mail system nor the Internet shall be used to send (upload) or receive (download) copyrighted materials, trade secrets, proprietary financial information, or similar materials without prior authorization.
14. The Internet facilities and computing resources of the City of Elkins may not be used to violate the laws and regulations of any state, city, province or other local jurisdiction. Use of any city resource for illegal activity is grounds for immediate dismissal, and the City will cooperate with any legitimate law enforcement activity related thereto.
15. Any software or file downloaded via the Internet into the City's network becomes the property of the City. Any such files or software may be used only in ways that are consistent with their licenses or copyrights.
16. No employee may use the City's Internet facilities to knowingly download or distribute pirated software or data.

17. No employee may use the City's Internet facilities to deliberately propagate any virus, worm, Trojan horse, or trap-door program code.
18. No employee may use the City's Internet facilities to knowingly disable or overload any computer system or network, or to circumvent any system intended to protect the privacy or security of another user.
19. E-mail and voice mail should not be used to transfer confidential, privileged, or sensitive information outside of the City's computer system or over the Internet unless approval is obtained in advance from a supervisor.
20. The City retains the copyright to any material posted to any forum, newsgroup, chat, or World Wide Web page by any employee in the course of his/her duties.
21. Unnecessary or unauthorized Internet usage causes network and server congestion; it slows other users, takes away from work time, consumes supplies, and ties up printers and other shared resources. Unlawful Internet usage may also generate negative publicity and expose the City to significant legal liabilities.
22. Any employee who discovers violation of this policy shall notify a supervisor immediately.
23. Any employee who violates this policy or uses the telephone system, data processing system, e-mail system, Internet or other electronic data base for improper purposes shall be subject to discipline, up to and including discharge.

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17. ANTI-HARASSMENT POLICY

17. A: Rationale

State and Federal laws protect employees from discrimination and harassment based on certain characteristics, such as race, age, gender (sex), religion, disability, and national origin. In its *Guidelines on Discrimination Because of Sex*, the Equal Employment Opportunity Commission states that sexual harassment is an unlawful employment practice. The purpose of this policy is to unequivocally set the City's position regarding sexual and other forms of illegal harassment, and the procedures to be implemented in order to carry out this policy. The City requires all employees to refrain from conduct that subjects other employees to illegal harassment, including sexual harassment.

17. B: Definition

Illegal harassment consists of comments and/or behavior that are directed at an employee's race, gender, age, disability, religion, or national origin. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

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

City employees are prohibited from engaging in any of the conduct described above.

17. C: Policy

The City's continuing policy is to provide employees a workplace free from any form of illegal harassment. Sexual harassment in any manner or form is expressly prohibited. All claims of illegal harassment will be promptly and thoroughly investigated and corrective action taken if warranted by the results of the investigation. Such action may include disciplinary measures up to and including immediate termination.

17. D: Procedures

An employee who feels that he/she has been subjected to sexual or other illegal harassment by his/her supervisor, or by fellow employees, or citizens and/or visitors of the City, should report the incident in writing to his/her immediate supervisor.

If the complaint involves the supervisor, the incident should be reported directly to the Mayor or, in the absence of the Mayor, to the City Clerk. Upon receiving such notification, the Mayor or City Clerk will inform the City attorney and the Chair of the City's Personnel Committee. Complaints will be promptly and thoroughly investigated. Investigations will be designed to protect the reasonable privacy interests of all parties concerned. All employees must cooperate

with and provide information relative to these investigations. Disciplinary and corrective action will be taken dependent upon the circumstances and as appropriate.

18. SAFETY AND HEALTH

18.A: Smoking

All buildings and vehicles owned and/or operated by the City are smoke and tobacco product free. No employee will be permitted to smoke or use smokeless tobacco products within any building, vehicle, or other facility owned and/or operated by the City.

Employees will not be discriminated against on the basis of their off-premises use of tobacco products. However, the City recognizes the very serious hazard to the individual's health caused by the use of tobacco products, and encourages employees to participate in programs designed to eliminate the use of tobacco products, and to avail themselves of therapeutic means of conquering their tobacco addictions.

18.B: Workplace Violence

Workplace violence endangers employees and the public, and can lead to injury and even death. Violent acts can be committed by co-workers as well as non-employees. Violence, or conduct that may lead to violence, will not be tolerated. All employees share the responsibility for reducing the possibility of workplace violence.

Employees must comply with the employee conduct standards imposed by the City. Workplace harassment can lead to workplace violence. Therefore, all employees must comply fully with the policies concerning harassment. In addition to the administration of disciplinary action, the City reserves the right to take legal action against employees for violations of City policy.

Employees must promptly report conduct or situations that indicate potential for violence to their supervisor, the Mayor, or the Chief of Police. Potentially violent conduct or situations include, but are not limited to, vandalism of City personal property, actual threats of violence, harassment directed to an individual or group of employees, and intentional destruction or threatened sabotage of City property. If a situation presents an imminent likelihood of violence or danger, the employee should call 911 or the appropriate emergency response number prior to contacting the supervisor or other persons.

18.C: Motor Vehicle Safety

A valid driver's license is required to operate vehicles on City business. The status of the license will be determined annually. If an impairment, be it physical, mental or emotional, renders an employee unfit or unable to drive safely, then that employee shall not be permitted to drive a City vehicle or operate a personal vehicle on City business. This includes temporary periods of impairment caused by illness, medication, or intoxication. All employees who operate a vehicle on City business must exercise due diligence to drive safely and maintain the integrity of the vehicle and its contents.

All employees must wear seat belts at all times in vehicles used for City business. Employees who use their personal vehicles for City business must insure that their vehicles meet all legal standards for insurance, maintenance, and safety.

Any accident, theft, damage, breakdown, or other significant problem that occurs when a vehicle is being used for City business must be reported to the employee's supervisor within 48 hours of

the incident, regardless of whether injuries or serious property damage are sustained. If the employee is physically or mentally unable to make the report within 48 hours, then the report shall be made at the earliest practicable time. Employees must also report any traffic violations for which a citation is issued within 48 hours of the citation's receipt. Employees are responsible for any fines or other penalties incurred as a result of their driving.

19. EFFECT OF LAWS

The previous pages and all addenda hereto, have attempted to outline the City's Personnel Policies and Procedures. Again, this document creates no contractual obligations on the City's part and sets forth general guidelines only.

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20. PROOF OF REVIEW OF MANUAL

I, _____, have reviewed the Personnel Policy and Procedures Manual for the City of Elkins on this date: _____.

I have discussed the issues that were not clear to me with my supervisor.

I understand the Manual and all addenda hereto and will adhere to its contents. I understand that this manual creates no contractual obligations on the part of the City or on my part. Instead, I understand that this manual constitutes a set of guidelines only. I further acknowledge and understand that the City may change the provisions of this Manual at its discretion.

I also understand that, pursuant to the City's Office Technology and Systems Use Policy, all telephone and computer systems are the property of the City and may be monitored at any time. I hereby give my consent to such monitoring with no further advance notice to me.

Employee's Signature

Date

Witness

Date

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21. APPENDICES AND ADDENDA

Appendices:

- A. Drug and Alcohol Testing Policy
- B. Employment Eligibility Verification (I-9)
- C. Grievance Form
- D. Leave Donation Program

Addenda:

- A. Observable Behavior Checklist
- B. Safety Sensitive Checklist

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APPENDIX A: City of Elkins Substance Abuse Policy

The City of Elkins is committed to providing a safe, productive and healthy work environment. Since substance abuse poses a serious threat to the health and safety of all employees, the City will not tolerate substance abuse in the workplace, and maintains a zero tolerance policy in this regard. Substance abuse occurs when an individual misuses alcohol or another legal substance, uses illegal drugs, or misuses prescription and over-the-counter drugs and inhalants.

This Substance Abuse Policy is in effect at all of our facilities, on all City property, in any City-owned or leased vehicle, and while on duty or immediately available for duty, regardless of location. Drivers of commercial motor vehicles are subject to the City's "Drug and Alcohol Testing Policy for Drivers of Commercial Motor Vehicles." The City retains the right to take actions designed to further this generally applicable policy pursuant to its own authority in addition to any actions it takes in order to comply with its responsibilities under the Omnibus Transportation Employee Testing Act of 1991.

It is a violation of City policy for any employee to:

- Use, possess, sell, trade, offer for sale, buy, or otherwise engage in the distribution of any illegal drug or inhalant.
- Consume alcoholic beverages on City property.
- Report to work under the influence of alcohol, any mind-altering substance, or any illegal drug or inhalant.
- Test positive for alcohol or any illegal drug or inhalant.
- Refuse to be tested, tamper with or destroy a test sample, submit a false sample, or otherwise interfere with the integrity of any testing procedure.
- Misuse prescription or over-the-counter drugs or legal substances with mind-altering properties in any manner that may result in job impairment or a positive drug test.

Employees violating this policy are subject to discharge.

Drug/Inhalant/Alcohol Testing

Employees will be tested for drugs, inhalants, alcohol, and other mind-altering substances in accordance with applicable law. Consistent with those laws, all City employees shall be required to participate in the following kinds of substance abuse testing:

1. **Pre-Employment**. Following a job offer as part of the employee's pre-employment screening process.
2. **Reasonable Suspicion**. Whenever there is a reasonable, good-faith, objective suspicion that an employee has reported to work or is working under the influence of alcohol or a drug, or substance of abuse, or has otherwise violated this policy. Reasonable suspicion may be

based on a number of factors including, but not limited to, the following (see Addendum A: Observable Behavior Checklist):

- i. Direct observation of substance abuse at work;
 - ii. Abnormal conduct or erratic behavior while at work, or a significant deterioration in work performance or other actions that indicate impairment;
 - iii. A report of substance abuse by a credible source. A credible source is an objective individual whose identity is known and who has provided reliable information that can be verified;
 - iv. Evidence that an employee has used, possessed, sold, distributed, or solicited a drug, inhalant, alcohol, or other mind-altering substance on City property, while engaged in City business, or while operating a City vehicle, machinery, or equipment.
3. Post-accident. If, while operating a city vehicle, an employee is involved in an accident, that employee is subject to an immediate, mandatory drug screening, regardless of whether or not the employee is determined to be at fault.

It is the responsibility of the supervisor of the affected employee to make arrangements for a drug screening to be done within 24 hours following the accident.

Other, additional requirements may apply to holders of commercial driver's licenses under state and federal law.

4. Fitness for duty. Testing may be required as a part of a fitness for duty medical examination. For example, testing may be conducted where required by law, regulation, or established policy.
5. Random. Random testing will be conducted of all safety-sensitive employees (see Addendum B: Safety Sensitive Checklist). Safety-sensitive employees are those who perform tasks or duties fraught with such risk of injury to the employee or others that even a momentary lapse of attention or judgment, or both, can lead to serious bodily harm or death.

Self Referral

Employees may avoid termination for violation of this policy by referring themselves to the City for referral to a substance abuse professional prior to any violation of this policy. Once an employee has violated the policy, this option is no longer available. Referral to a substance abuse professional is then at the City's sole discretion. Substance abuse is a treatable condition, and the City encourages any employee who thinks he or she may have a problem to obtain help before it becomes a disciplinary issue.

Opportunity to Contest or Explain Test Results

Test results are evaluated by a Medical Review Officer. If an employee disputes the accuracy of a positive test result, the employee may challenge the result with the Medical Review Officer.

The Medical Review Officer will consider any information offered by the employee in this regard. If the medical review officer does not accept the employee's explanation for the challenged result, the test shall be reported back to the City as positive. The employee will be entitled to a copy of the result if requested within five working days.

Confidentiality

Any information obtained by the City pursuant to its drug testing program shall be treated as confidential medical information. All records will be maintained in a secure location in a controlled access area. The City will only release any drug/alcohol testing records under the following circumstances.

1. With the employee's written authorization, or upon request of the employee's power of attorney should the employee be incompetent or incapacitated;
2. To the decision-maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the individual and arising from the results of an alcohol and/or drug test or from the City's determination that the employee engaged in prohibited conduct (including, but not limited to, worker's compensation, unemployment compensation, or other proceedings relating to a benefit sought by the employee);
3. Pursuant to a court order, search warrant, or other legally constituted request for such information.

Information relating to an employee's drug and alcohol testing, administration of this policy, and imposition of disciplinary action will be provided only to a limited number of persons, including, but not limited to, the employee's supervisor and the Operations Manager. Such information may be shared only by those persons having a legitimate interest in these issues as they relate to the management and direction of the work force.

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APPENDIX B: Employment Verification Form

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APPENDIX C: Grievance Procedure

1. A grievance is a request by an employee or group of employees, acting as individuals, for personal relief in a matter, which is subject to the control of the municipal government. It may include any dispute or disagreement about any term or condition of employment including safety on the job. All employees have the right to communicate with, and to seek advice from, others if they have a valid reason for not consulting their immediate supervisor; the right to present a grievance without fear of reprisal or interference; the right to represent themselves or to be represented by a co-worker; the right to have a reasonable amount of official time to present a grievance at any level of the grievance review system, including directly to the appropriate state agency (where applicable), without fear of reprisal.
2. All grievances should be settled at the lowest possible organizational level and in the shortest amount of time possible. An employee or group of employees may present such grievance either formally or informally, as follows:
 - a) Present the grievance, providing all facts and circumstances, either orally or in writing to his/her immediate supervisor.
 - b) The supervisor will, within two working days, provide a response to all reasonable complaints. If a solution is not achieved, the supervisor will, at that time, discuss the problem with the appropriate Administrative Officer and provide that person with all relevant background information and any recommended solutions.
 - c) The employee or group of employees may present the case directly to the Mayor. This presentation may be orally or in writing, depending on the nature of the grievance. If no solution is achieved at this level of review, the employee or group of employees shall, if desired, present the grievance under the procedure established for formal presentation set forth in paragraphs d) thru f) below.
 - d) Complete a City Grievance Form. Care should be taken to include all relevant facts and circumstances, reflecting dates, times, names of witnesses, and any other information having a bearing on the case. Additionally, indicate what action – if any – was taken or recommended by the supervisor, and why such action or recommendation is not adequate.
 - e) Forward the completed form to the Mayor's office within five (5) days from the date of the aforesaid supervisor's response to the grievance for the Mayor's review and action.
 - f) The Mayor shall review the case, may have the case investigated, and will normally provide a reply to the parties concerned within five (5) days of receipt of the completed form.

If a civil service employee does not agree with the Mayor's decision, he/she may have the right to present the grievance to the appropriate state agency. If the latter recourse is taken, the Mayor will provide details on the procedure.

This policy and procedure does not prevent employees from exercising any constitutional rights they may have to utilize the judicial system.

3. All records, including investigation reports, grievance forms, memoranda, and actions taken on each official grievance filed within the municipal government will be maintained in the employee's personnel record. The fact that an employee filed a complaint or grievance will not be considered in future personnel actions.

**CITY OF ELKINS
CITY GRIEVANCE FORM**

NAME OF EMPLOYEE FILING THIS FORM:

NAME OF SUPERVISOR:

DATE OF THIS FILING:

CONCISE STATEMENT OF COMPLAINT OR GRIEVANCE:

**DATE OF INCIDENT:
WITNESSES, IF ANY:**

NAMES OF OTHER EMPLOYEES INVOLVED:

DETAILS OF GRIEVANCE:

(USE BACK IF NECESSARY)

SIGNATURE OF EMPLOYEE

DATE FILED WITH SUPERVISOR: _____ -or- DIRECTLY WITH MAYOR:

SUPERVISOR'S RESPONSE (SOLUTION, RECOMMENDATIONS, SUGGESTIONS, REACTION OF EMPLOYEE):
(USE BACK IF NECESSARY)

DATE OF RESPONSE: _____ SIGNATURE OF SUPERVISOR
(MUST RESPOND WITHIN 2 DAYS OF EMPLOYEE'S FILING)

I DO NOT AGREE WITH THE ACTION TAKEN BY MY SUPERVISOR BECAUSE (IF APPLICABLE):
(USE BACK IF NECESSARY)

_____ I WANT THIS GRIEVANCE PRESENTED TO THE MAYOR.

_____ SIGNATURE OF EMPLOYEE
(MUST BE PRESENTED WITHIN 5 DAYS OF SUPERVISOR'S RESPONSE – IF APPLICABLE)

ACTION TAKEN BY MAYOR: (REPLY WITHIN 5 DAYS OF RECEIPT) DATE OF ACTION:

_____ SIGNATURE OF MAYOR

APPENDIX D: Annual Leave Donation Program

POLICY

1. Definitions

Terms used in this program which are not included in this section have the usual and customary meaning of the term.

- a. Annual Leave: An earned employee benefit paid time off from work as provided in the City of Elkins Personnel Manual.
- b. Dollar Value of Annual Leave: The hourly rate of an employee multiplied by the number of hours of annual leave.
- c. Donor: An employee who voluntarily donates accrued annual leave to a recipient.
- d. Employee: Any person who is paid a wage or salary and who is entitled to annual leave as a benefit of employment.
- e. Hourly Rate: The total annual base salary for a full-time employee divided by 2080 hours.
- f. Immediate Family: The immediate family consists of the parents, children, siblings, spouse, parents-in-law, children-in-law, grandparents, grandchildren, step-parents, step-siblings, stepchildren, and individuals in a legal guardianship relationship.
- g. Medical Emergency: A medical condition of an employee or a member of the employee's immediate family that is likely to require the prolonged absence of the employee from duty and which will result in a substantial loss of income to the employee because of the unavailability of paid leave.
- h. Recipient: An employee who receives (an) annual leave donations from other employees.
- i. Substantial Loss of Income: An amount greater than or equal to one-half month of an employee's base pay.

2. Eligibility

Recipient Eligibility. In order to be eligible to receive donations of leave, an employee must meet the following conditions:

- a. The employee must have a medical emergency involving a medical condition of the employee or a member of the employee's immediate family.
- b. In the case of a medical emergency involving a medical condition of the employee, the employee must have exhausted all sick leave and all annual leave as well as any other accrued paid leave to which the employee is entitled;
- c. In the case of a medical emergency involving a medical condition of a member of the employee's immediate family, the employee must have exhausted all annual

leave and the sick leave allowance for members of the employee's immediate family as provided in the City of Elkins Personnel Policy.

- d. The medical condition of the employee or the member of the employee's immediate family must be verified in writing by a physician or medical practitioner as requiring the absence of the employee from work at least one half a month continuously after the exhaustion of available leave as specified in subdivisions 1.1.b and 1.1.c. of this section.
- e. The employee must apply to receive donated leave according to the procedures established by this program. If, because of the nature of an employee's medical condition, the employee is unable to apply to receive donated leave, the application may be made by a member of the employee's immediate family or by the employee's appointing authority; and
- f. The employee must not be receiving or be eligible to receive compensation for his or her absence from work from the Worker's Compensation Fund, nor may the employee be receiving Social Security Disability benefits for his or her absence from work.

Donor Eligibility. In order to be eligible to make donations of leave, an employee must meet the following conditions:

- a. The employee must have a remaining balance of 80 hours of accrued sick and/or annual leave after making the annual leave donation (unless the employee is retiring or resigning; see "exception," below) and
- b. The employee must make the leave donation according to the procedures established by this program.

Exception: Employees who are resigning or retiring are not required to retain the above 80 hours or any other amount of accrued sick and/or annual leave after making the annual leave donation. However, their donation will not become final until the effective date of their resignation or retirement. Employees being terminated for cause are not eligible to make leave donations.

3. Recipient Status

Employees who are recipients of donated leave are considered in leave without pay status in accordance with the City of Elkins Personnel Policy.

Recipients whose absences are due to their own medical condition are considered on medical leave of absence without pay for up to six months, and, if requested by the and approved by the City of Elkins proper authority, on personal leave of absence for medical reasons for up to an additional six months.

Recipients whose absences are due to the medical conditions of members of their immediate families are considered on personal leave of absence without pay.

The following restrictions regarding benefits shall apply to recipients:

- a. Recipients do not accrue annual or sick leave, nor do they earn years of service credit for leave accrual purposes, while in this status;
- b. Recipients are not eligible for paid holidays while in this status;
- c. Recipients do not earn tenure for purposes of order of separation on layoff while in this status;
- d. Recipients do not earn service credit for purposes of an annual increment while in this status;
- e. Recipients do not earn service credit for any retirement system administered by the City of Elkins while in this status; and
- f. Recipients' eligibility to have the employer share of insurance premiums paid is determined in accordance with the rules and procedures of the Public Employees' insurance Agency for employees in leave without pay status.

The receipt of donated leave in no way relieves an employee of the responsibilities of applying for either a personal or a medical leave of absence without pay or receiving approval for a personal leave of absence without pay in accordance with the City of Elkins Personnel Policy.

4. Method of Donations and Use of Donated Leave

All donations of leave and the use of donated leave is governed by the following criteria as well as procedures established by the City of Elkins proper authority in conformance with these criteria.

Method of Donations

- a. Donations shall be in the form of whole hours of annual leave only.
- b. Donors shall specifically designate the recipient(s) of the leave donation.
- c. The Employee Benefits Coordinator/Payroll Clerk shall deduct the total donation from the leave balance of the donor upon receipt of the approved donation form.
- d. The Employee Benefits Coordinator/Payroll Clerk of the donor shall calculate the dollar value of the donated leave, and in the case of inter-departmental donations, shall transmit that information to the Department Supervisor of the recipient according to procedures established by this program.
- e. For inter-departmental donations, the account the donor is paid from shall reimburse the account from which the recipient was paid according to procedures established by this program.
- f. The City Treasurer may limit inter-departmental donations when he/she determines that the donation will cause the account from which the potential donation is paid to exceed its cash balance.

Use of Donated Leave

- a. Donated leave shall be used at its present dollar value.

- b. The Employee Benefits Coordinator/Payroll Clerk shall continue to pay the recipient, according to procedures established by this program, as long as there is a positive balance of the total dollar value of all leave donated to the recipient.
- c. For inter-departmental donations, the Employee Benefits Coordinator/Payroll Clerk shall request reimbursement from the account the donor is paid from, as long as there is a positive balance of the total dollar value of all leave donated to the recipient.
- d. A recipient's use of donated leave shall cease:
 - A. If the recipient, for any reason, ceases employment with the City of Elkins;
 - B. If the recipient voluntarily requests termination of the use of donated leave;
 - C. If the recipient fails to provide the required physician/practitioner's verification or otherwise fails or ceases to meet eligibility requirements;
 - D. Upon the exhaustion of the total dollar value of all leave donated to the recipient; or
 - E. Upon the recipient's return to work.
- e. Any unused leave donation shall be returned to the donor and re-credited to his or her leave balance according to procedures established by this program.

5. Employee Benefits Coordinator/Payroll Clerk Responsibilities

The Employee Benefits Coordinator/Payroll Clerk is responsible for compliance with this policy and the procedures established by the City of Elkins proper authority for implementation of the policy.

The Employee Benefits Coordinator/Payroll Clerk is responsible for assuring that donors and recipients meet all conditions of eligibility for the Leave Donation Program.

The Employee Benefits Coordinator/Payroll is solely responsible for and authorized to provide information regarding instances of eligible employees seeking donations of leave in accordance with the procedures established by this program.

The Employee Benefits Coordinator/Payroll Clerk shall maintain all records of donations and use of donated leave in accordance with procedures established by this program.

The Employee Benefits Coordinator/Payroll Clerk shall provide all required and requested information and reports in accordance with the procedures established by this program.

6. Treasurer's Responsibilities and Annual Report

The City of Elkins' Treasurer is responsible for establishing standards and procedures for implementation of this program and for preparing an annual status report on the Leave Donation Program to be presented to City Council no later than its last meeting in the month of January each year.

PROCEDURES and FORMS

INTRODUCTION

The procedures and forms detailed as follows were adopted from the State of WV Division of Personnel's Leave Donation Program. These procedures and forms may be changed from time to time as the need arises.

Full time employees of the City of Elkins are eligible to participate in a voluntary Leave Donation Program under which leave accumulated by an employee may, if voluntarily agreed to by the employee, be transferred as donated leave to another designated employee if the requesting employee has exhausted all available paid leave due to a medical emergency.

For the purpose of this program, a medical emergency is defined as a medical condition of the employee or an immediate family member of the employee (as defined in the City of Elkins Personnel Policy) that will require the prolonged absence of the employee from duty and will result in a substantial loss of income to the employee because the employee will have exhausted all paid leave available apart from the Leave Donation Program.

PROCEDURES

1. Applying To Receive Donated Leave

An employee who thinks he/she may be eligible for leave donations must first:

- Complete Part I (Applicant Information) of the form titled APPLICATION TO RECEIVE DONATED LEAVE; and,
- Have his/her physician or medical practitioner complete Part III of the same form. If the employee is applying to receive donated leave to care for an ill or injured member of their immediate family, the physician or medical practitioner for the family member completes Part III.

NOTE: If the employee, because of his/her medical condition, is unable to complete the application him/herself, it may be completed by an immediate family member or by the appointing authority. Item 10, however is optional and, if completed, can only be completed by the employee.

Once both Parts I and III have been completed, the employee must:

- Submit the APPLICATION TO RECEIVE DONATED LEAVE to his/her department supervisor.

2. Processing the APPLICATION TO RECEIVE DONATED LEAVE

When an APPLICATION TO RECEIVE DONATED LEAVE is received by a department supervisor:

- It should be forwarded immediately to the person responsible for keeping the applicant's leave records (Employee Benefits Coordinator/Payroll Clerk).

The person responsible for keeping the applicant's leave records (Employee Benefits Coordinator/Payroll Clerk) should:

- Make sure Parts I and III are complete (if not, return to the applicant for completion), then
- Complete Part II of the APPLICATION TO RECEIVE DONATED LEAVE

Once Part II of the APPLICATION TO RECEIVE DONATED LEAVE is completed, the Employee Benefits Coordinator/Payroll Clerk will either:

- Prepare the NOTICE OF ELIGIBILITY TO RECEIVE LEAVE DONATIONS if the employee is eligible; or
- Return a copy of the completed APPLICATION TO RECEIVE DONATED LEAVE to the employee if the employee is NOT eligible.

NOTE: The earliest date a recipient employee can be eligible to receive leave donations is either the date the APPLICATION TO RECEIVE DONATED LEAVE is received by the agency or the date all leave available to the recipient employee is exhausted, whichever is later.

NOTE: Participation in the leave donation program does not relieve an employee of the responsibility of applying and receiving approval for an appropriate leave of absence without pay. It should be noted, however, that the employee is participating in the program.

3. Completing the NOTICE OF ELIGIBILITY TO RECEIVE LEAVE DONATIONS

All information required for the notice is available from the APPLICATION TO RECEIVE DONATED LEAVE. The NOTICE OF ELIGIBILITY TO RECEIVE LEAVE DONATIONS:

- Is completed and distributed by the Employee Benefits Coordinator/Payroll Clerk to advise interested employees that a fellow employee is in need of and eligible for leave donations;
- Must be signed by the Employee Benefits Coordinator/Payroll Clerk or his/her designee.

NOTE: The additional information (Part I, item 10, of the Application to Receive Donated Leave), if any, must be published exactly as the employee has written it.

The Employee Benefits Coordinator/Payroll Clerk or his/her designee:

- Must make the notice (or an electronic equivalent/facsimile) available to other employees of the City of Elkins in a manner deemed appropriate by the appointing authority;

4. Applying to donate leave

An employee who wishes to make a voluntary donation of leave to a designated eligible employee must:

- Complete Part I of the APPLICATION TO DONATE LEAVE; and
- Submit the APPLICATION TO DONATE LEAVE to the Employee Benefits Coordinator/Payroll Clerk.

5. Processing the APPLICATION TO DONATE LEAVE

The Employee Benefits Coordinator/Payroll Clerk should:

- Make sure Part I is complete and signed (if not, return to the applicant for completion); then
- Complete Part II of the APPLICATION TO DONATE LEAVE.

Once Part II of the APPLICATION TO DONATE LEAVE is completed, either:

- Return a copy of the APPLICATION TO DONATE LEAVE to the donor applicant if said donor applicant is NOT eligible; or
- If the donor applicant is eligible but is NOT paid from the same account as the designated recipient, an INTER-DEPARTMENTAL DONATION FORM must be completed.
- If the donor applicant is eligible and is paid from the same account as the designated recipient, an INTER-DEPARTMENTAL DONATION FORM is not necessary.

6. Paying recipients of donated leave

NOTE: Donated leave is wages for the recipient employee according to the IRS, *Revenue Ruling 90-29*. Consequently, wage-based deductions are taken from leave donations except for State retirement deductions since the leave donation law prohibits service credit from being granted during periods when donated leave is used. However, since the object of the leave donation program is to replace "take-home" pay, gross pay is adjusted to account for the retirement exception and payments of donated leave are processed as payroll as described below.

Once you have received approved leave donations for an eligible recipient employee, you should:

- Calculate the recipient employee's adjusted gross pay for a regular pay period (i.e. one-half a month) by subtracting the employee's usual State retirement deduction from his or her usual gross pay for a regular pay period (excluding overtime).

If there are donations at least equal to the recipient employee's adjusted gross pay for a half-month (or portion of a half-month if the employee's eligibility begins or ends prior to the end of a pay period), take the mandated deductions [**except** State retirement] and any other deductions authorized by the employee from the adjusted gross and process as payroll. The recipient employee's take home pay should be the same (or within pennies of the same) as his or her take home pay (excluding overtime) if he or she were at work or on paid leave. If the donations are less than the recipient employee's adjusted gross pay for a half-month, take the mandated deductions [**except** State retirement] and any other deductions authorized by the employee from the available donations and process as payroll. In either case, you may pay the leave donations on a regular payroll or a supplemental, whichever the circumstances dictate. If you pay the leave donations on a regular payroll, remember to zero out the retirement deduction.

NOTE: As you receive approved APPLICATIONS TO DONATE LEAVE or INTER-DEPARTMENTAL DONATION FORMS, it is recommended that you keep a ledger for each recipient that shows all donations received and payments made. Donations should be used in the order received (earliest to latest) from within the department FIRST, then in the order received from outside the department.

If the recipient has been paid from inter-departmental leave donations, request reimbursement from the donor employee's department as follows.

- Complete Part II of the INTER-DEPARTMENTAL DONATION FORM as follows.

Send the INTER-AGENCY DONATION FORM to the contact person in the donor's department (Part I, item 6).

When you receive an INTER-DEPARTMENTAL DONATION FORM requesting reimbursement, process an expense-to-expense transfer using appropriate account information and attaching a copy of the INTER-AGENCY DONATION FORM.

7. Returning and Re-crediting Unused Leave Donations

If, for whatever reason, more leave is donated to a recipient than the recipient needs or is eligible to use, that excess leave donation should be returned to the donor(s) and re-credited to his/her (their) leave balance(s) as follows.

If the leave donation is inter-departmental (i.e. the recipient and the donor are paid from different funds), notify the contact person in the donor's agency of the dollar balance of the leave donation

which was/will not be used by completing Part III of the INTER-AGENCY DONATION FORM.

If the recipient and the donor are paid from the same fund or if you have received notice that an inter-departmental donation will not be used (either in whole or in part):

- Determine the amount of the unused leave donation in hours by dividing the unused dollar amount of the leave donation by the hourly rate of the donor at the time the donation was made;
- Re-credit the number of hours of unused leave donation to the leave balance of the donor; and,
- Notify the donor of the amount of unused leave donation re-credited to his/her leave balance.

Unused leave donations are re-credited to the donor's leave balance as of the original date of the donation. In the case of leave which could **not** have been carried forward to the new calendar year, the donor will be given one additional opportunity to donate the leave to another designated eligible recipient. This donation should be made within five work days of notice of the re-crediting of the unused donation. If the subsequent donation is unused, that donation is re-credited to the donor's leave balance as of the **original** date of the **first** donation and the City of Elkins Personnel Policy is followed regarding carry-forward hours.

NOTE: In no case shall the provisions of the leave donation program be used or interpreted to allow an employee to carry forward hours of leave in excess of those allowed in the City of Elkins Personnel Policy.

8. Documenting and Reporting Leave Donations

The Treasurer is required to report to City Council annually on the status of the leave donation program.

This report will be based on the following information provided by the Employee Benefits Coordinator/Payroll Clerk: copies of all completed APPLICATIONS TO RECEIVE DONATED LEAVE, NOTICES OF ELIGIBILITY TO RECEIVE LEAVE DONATION, APPLICATIONS TO DONATE LEAVE, and INTER-DEPARTMENTAL DONATION FORMS (i.e. with reimbursement requested). This information must be submitted to the Treasurer on a quarterly basis, within two weeks after the end of each quarter

9. Account Information

Payment of leave donations to recipients should be made from the payroll account of the fund and org to which the recipient's position is allocated with benefit payments made from the appropriate benefit accounts.

For reimbursement of inter-departmental donations (i.e. the donor and recipient are paid from different funds/operating accounts), the reimbursement for personal services should be made

from the personal services account of the fund and org to which the donor's position is allocated, and the reimbursement for the employer's FICA match should be made from the Social Security line item (011) of the benefits account of the fund and org to which the donor's position is allocated using the appropriate reimbursement object code. Any exceptions should be noted by attachment to the expense-to-expense cover sheet.

Certain funds are not eligible sources of payment for leave donations or reimbursement for inter-departmental leave donations. Generally, these are single purpose fund sources which are defined by statute or for which the Budget Bill specifies eligible expenditures from the appropriation. These include: current expenses; equipment; repairs and alterations; any capital outlay appropriation; buildings (construction or reconstruction); land purchases; debt service; and, any special revenue fund that is single purpose. Questions regarding the eligibility of a fund as a source of reimbursement for leave donations should be directed to the Auditor's Office.

FORMS

The following forms for the Leave Donation Program are available in the office of the Employee Benefits Coordinator/Payroll Clerk:

APPLICATION TO RECEIVE DONATED LEAVE
NOTICE OF ELIGIBILITY TO RECEIVE LEAVE DONATIONS
APPLICATION TO DONATE LEAVE
INTER-AGENCY DONATION FORM

[Revenue Ruling 90-29, 1990-15 I.R.B]

ADDENDUM A: Observable Behavior Checklist

Reasonable Suspicion of Drug/Inhalant/Alcohol Use

NOTE: This information is highly sensitive and strictly confidential. This form's use is limited to administration of the City's drug/inhalant/alcohol testing program, and will only be otherwise maintained in the employee's confidential medical file.

Employee's name: _____ Date: _____

I, _____, the above-named employee's supervisor or manager, have examined the employee's appearance and behavior, and recorded the following observations:

| | YES | NO |
|--|-------|-------|
| 1. Smell of alcohol on breath or clothing | _____ | _____ |
| 2. Speech pattern(s): | | |
| Slurred | _____ | _____ |
| Fragmented | _____ | _____ |
| Confused | _____ | _____ |
| Unusually quiet | _____ | _____ |
| Unusually talkative | _____ | _____ |
| Louder or more soft-spoken than usual | _____ | _____ |
| 3. Disoriented as to time and/or place | _____ | _____ |
| 4. Unable to focus on work | _____ | _____ |
| 5. Sleepy, excessive yawning, etc. | _____ | _____ |
| 6. Decreased coordination and/or agility | _____ | _____ |
| 7. Attitude: | | |
| Refuses to follow reasonable directions | _____ | _____ |
| Belligerent Agitated or nervous | _____ | _____ |
| Giddy | _____ | _____ |
| Weepy | _____ | _____ |
| 8. Unusually pale or flushed | _____ | _____ |
| 9. Excessive perspiration | _____ | _____ |
| 10. Excessive visits to restroom(s) | _____ | _____ |
| 11. Eyes bloodshot, pinpoint or dilated | _____ | _____ |
| 12. Traces of alcohol and/or drugs in containers or on clothing | _____ | _____ |
| 13. Admission of drug and/or alcohol use by employee | _____ | _____ |
| 14. Observation of drug and/or alcohol use by other employees | _____ | _____ |
| 15. Possession of drug paraphernalia | _____ | _____ |
| 16. Smell of marijuana | _____ | _____ |
| 17. Visits to areas in facility the employee does not usually go | _____ | _____ |
| 18. Unexplained fatigue or exhaustion | _____ | _____ |
| 19. Unusually disheveled or unkempt appearance | _____ | _____ |
| 20. Sudden and/or unpredictable change in energy level | _____ | _____ |
| 21. Shakes or trembling | _____ | _____ |

- | | | | |
|-----|---|-------|-------|
| 22. | Sunglasses worn inappropriately | _____ | _____ |
| 23. | Peer avoidance or withdrawal | _____ | _____ |
| 24. | Co-worker reports and/or complaints | _____ | _____ |
| 25. | Unauthorized or unscheduled absences, especially on Mondays, Fridays, and before or after holidays and paydays | _____ | _____ |
| 26. | Changed appearance after lunch or other breaks | _____ | _____ |
| 27. | Unexplained breathing or swallowing difficulties | _____ | _____ |
| 28. | Unusual sneezing, bloody nose or nasal congestion not attributable to colds or allergies | _____ | _____ |
| 29. | Needle marks | _____ | _____ |
| 30. | Tardiness, especially returning from lunch or other breaks | _____ | _____ |
| 31. | Unexplained disappearances from the job or work area | _____ | _____ |
| 32. | Decreased efficiency or productivity | _____ | _____ |
| 33. | Unusual carelessness with equipment and/or supplies | _____ | _____ |
| 34. | Unexplained or abnormally high number of job-related mistakes, injuries or accidents. | _____ | _____ |
| 35. | Unexplained deterioration in general health condition | _____ | _____ |

Additional comments:

I have reviewed my observations and this form with _____ (other supervisor or manager, Program Administrator, DER).

I was unable to review my observations with another supervisor or manager in a timely manner.

Supervisor/Manager's Signature

ADDENDUM B: Safety Sensitive Job Classification Checklist

Job positions within the City of Elkins, whether full-time or temporary positions, requiring any of the following are considered to be safety-sensitive. Classification as safety-sensitive means that employees in these positions are subject to random drug testing.

- ___ Working with or around industrial equipment such as pumps, motors, hoists, presses, blowers or compressors.
- ___ Working at heights, including on ladders or lifts
- ___ Operating a motor vehicle owned by the City of Elkins
- ___ Repair of a motor vehicle
- ___ Working in or around motor vehicle traffic areas
- ___ Construction work or working in or around construction sites
- ___ Operating any type of heavy equipment
- ___ Operating any type of machinery, including (but not limited to) lawn mowers, leaf and snow blowers, weed eaters, or generators
- ___ Operating any type of power tools and/or equipment including (but not limited to) welders, saws, jackhammers, drills, or other handheld power tools
- ___ Working with or around hazardous materials or chemicals, whether in gaseous, liquid, or solid form
- ___ Working with or around flammable materials or explosives
- ___ Working with electrical wiring or components
- ___ Maintenance of heating or cooling systems

Job Classification: _____

Evaluated by: _____

Title: _____

Date: _____

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