



PERSONNEL RULES AND REGULATIONS

**EFFECTIVE
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PERSONNEL RULES AND REGULATIONS

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SERIES 100 - GENERAL PROVISIONS

101 - GENERAL PROVISIONS

101.1 PURPOSE

It is the purpose of this manual to establish a system of uniform personnel polices and to improve the quality of personnel administration consistent with merit principles. There is no intent for this manual to be construed as an employment contract.

101.2 PRINCIPLES

The following principles and policies are established to govern all personnel matters in the City of Fairmont:

- A. Appointment, promotion and continued employment shall be based on an individual's ability to perform a particular job.
- B. Discrimination against any person, in any employment matter, because of race, color, sex, pregnancy, sexual orientation, gender identity, genetic information (including family medical history), age (40 or older), disability, religion, national origin, or any other classification protected by law is prohibited.
- C. Continuity of employment shall be subject to good behavior, satisfactory performance of work and availability of funds.

101.3 SCOPE OF COVERAGE

The following municipal employees of the City of Fairmont, West Virginia are expressly exempted from coverage:

- A. All elected officials and non-employee members of boards and commissions.
- B. City Manager, City Attorney, and City Judge.
- C. Police and Fire personnel to the extent that State statutes and Civil Service Commission rules supersede these rules.
- D. An employee organization(s), with a properly executed Collective Bargaining Agreement with the City, shall be exempt from coverage in all areas where the agreement conflicts with the Personnel Manual.
- E. All municipal employment positions not expressly exempted from coverage by these rules and regulations shall be subject to these provisions.

101.4 SAVINGS CLAUSE

If any article, section, or portion of these policies is found to be invalid by duly constituted authority, it shall not affect the validity of the balance of these policies.

101.5 AMENDMENT OF PERSONNEL POLICIES

These Rules may be amended only by proposals of the City Manager adopted by Ordinance. Proposed changes to these Personnel Rules will be presented to the affected employees for review 30 days prior to introduction to City Council unless administrative in nature.

SERIES 100 – GENERAL PROVISIONS

102 – EQUAL OPPORTUNITY EMPLOYER

102.1 PURPOSE

It is the policy of the City of Fairmont to provide equal opportunity in employment to all employees and applicants for employment and to prohibit discrimination in employment because of race, color, sex, pregnancy, sexual orientation, gender identity, genetic information (including family medical history), age (40 or older), disability, religion, national origin or any other classification protected by law.

102.2 POLICY

This policy applies to all terms, conditions, and privileges of employment, including hiring, probation, training, promotion, transfer, compensation, benefits and assistance, layoff, recall, employee facilities, discharge, and retirement.

- A. Discrimination in employment will not be tolerated. In addition, the City will not tolerate retaliation against an employee for having opposed discrimination, having made a complaint of discrimination, having advised of allegedly discriminatory conduct, or having participated in any manner in an investigation or proceeding regarding an allegation of discrimination. Employees are prohibited from engaging in any discrimination or retaliation.
- B. The City also prohibits the harassment of any employee on the basis of their being a member of any protected classification.
- C. Every employee has an obligation to report any discriminatory conduct, which they believe has occurred or is occurring, whether such conduct is directed toward that employee or another. If any employee or applicant for employment believes they have been discriminated against or believes they have observed or are aware of any discrimination, that information should be immediately reported to their Department Head or, if the allegation involves their Department Head, then to the City Manager. An investigation will be conducted and remedial action will be taken as appropriate.
- D. Every employee, contractor or subcontractor who does not comply with this policy will be subject to disciplinary action (in case of an employee), including but not limited to discharge, and penalties (in the case of a contractor or subcontractor), including but not limited to termination of contract.
- E. The evaluation of employee job performance, including that of managers and supervisors, may be based, in part, on the employee's compliance with and promotion of the goals of this policy.

SERIES 100 – GENERAL PROVISIONS

103 – PRIVACY POLICY

- A. The City of Fairmont is committed to keeping your personal information accurate, secure and confidential to the best of our ability within a reasonable commercial standard. In an effort to keep your information strictly confidential, we protect it with physical and electronic safeguards, and we strive to abide by applicable federal security standards including The Privacy Act of 1974, as amended, 5 U.S.C. § 552a. We regularly review our processes and keep abreast of new technology. We do not allow anyone to have access to your information unless authorized. In addition, we require all outside firms and agencies we hire to help us, to maintain the confidentiality of your information in accordance with this Privacy Policy and to comply with all applicable laws.
- B. We want your information to be accurate and up-to-date. We follow reasonable commercial standards to maintain your information accurately. If you notify us of inaccurate information or outdated information, we will investigate and take appropriate action.
- C. Except as otherwise required by law, we do not provide employee information to list brokers, mail-order businesses, telemarketers, or other marketing firms to promote their services or products, and we do not sell, lend or give out your information for this purpose. If you are a former employee, we maintain the confidentiality of your information as if you were still an employee.
- D. We may gather information about you as a result of your employment and our continued relationship with you. This information includes some items which are protected (private) and some which may not be (no expectation of privacy). Generally, your name, address and telephone number, unless restricted, are not protected. Federal and state law allows us to share certain information without your permission when the information sharing is:
 - 1. Required by the Freedom of Information Act (FOIA);
 - 2. With companies hired by the city to perform necessary servicing functions at our direction;
 - 3. With certain non-affiliated companies we use to perform services on our behalf and at our direction. When we share information with non-affiliated companies, we strive to have written agreements that require them to keep the information safe and confidential and to use it only for our purpose; and
 - 4. As required by law or in response to a subpoena or legal process.

SERIES 100 – GENERAL PROVISIONS

104 - DEFINITIONS

Absenteeism – Multiple, repeated incidents of reporting off sick, requests to come in later in the morning or requests to leave early before the end of the workday.

Allocation - The assignment of a position to its appropriate class in relation to duties performed.

Appeal - An application for review of an alleged grievance submitted or instituted by an employee to higher authority.

Applicant - An individual who has completed and submitted an application for employment with the City.

Appointment - The offer to and acceptance by a person of a position either on a regular or temporary basis.

Assembled Examination - An examination for which applicants are required to appear at a specific place for the purpose of taking a test.

Certification - Endorsement as meeting required minimum standards for a vacant position.

Class - A group of positions which are sufficiently alike in general duties and responsibilities to warrant the use of the same title, class specifications and pay range.

Class Series - A number of classes of positions which are substantially similar as to the types of work involved and differ only in rank as determined by the importance of the duties and degree of responsibility involved and the amount of training and experience required. Such classes constitute a series.

Class Specification - A written description of a class consisting of a class title, general statement of the level of work and of the distinguishing features of work, examples of duties, and the desirable qualifications for the class.

Classification - The act of grouping positions in classes in regard to: (1) duties and responsibilities; (2) requirements as to education, knowledge, experience, and ability; (3) test of fitness; and (4) ranges of pay.

Classification Plan - The official or approved system of grouping positions into appropriate classes consisting of (1) an index to the class specifications; (2) the class specifications; (3) rules for administering the classification plan.

Classified Service - All offices and positions in the service of the City of Fairmont as defined in this ordinance.

Compensation - The Standard rates of pay and other remuneration which have been established for the respective classes of work; as set forth in the compensation plan as established by ordinance by City Council pursuant to WV Code 8-5-12.

Compensatory Time - Time off from work in lieu of monetary payment for hours worked in excess of normal working hours by employees who meet the definition of non-exempt under the Fair Labor Standards Act (FLSA). Compensatory Time will be in accordance with the Fair Labor Standards Act (FLSA).

Demotion - Assignment of an employee from one class to another which has a lower maximum rate of pay.

Department - The primary organizational unit which is under the immediate charge of a department head who reports directly to the City Manager.

Dismissal - Separation from City employment for cause.

Eligible - A person who has successfully met required qualifications for a particular class.

Eligible List - The ranking of eligible employees for vacancy in order of overall qualifications.

Employee - An individual who is legally employed by the City and is compensated through the City payroll for their services. Individuals or groups compensated on a fee basis are not included. Synonymous with "incumbent".

Examination - The process of testing, evaluating, or investigating the fitness and qualifications of applicants and employees.

Exempt Service - Those positions not included in the classified service as defined in these Rules and Regulations.

Full-time Employee - An individual receiving a regular appointment in either the classified or exempt service who is expected to work at least 2080 hours annually.

Immediate Family - Includes spouse, child, stepchild, grandchild, parent, sibling, stepparent, or legal guardian of employee.

Layoff - The involuntary, non-disciplinary separation of an employee from a position.

Leave - An approved type of absence from work as provided for by these Rules.

Merit Pay Increases - An increase in compensation established in the compensation plan which may be granted to an employee for meritorious service and completion of minimum prescribed periods of employment in the class.

Overtime - Authorized time worked by an employee in excess of their total normal working hours per week.

Overtime Pay - Compensation paid to an employee for overtime work performed in accordance with these Rules.

Pay Grade – A number assigned to the specific position within the Pay Plan.

Pay Plan - The official schedule of pay consisting of rates and other compensation approved by the City Council by Ordinance, as required by WV State Code 8-5-12, assigning one or more rates of pay to each class title.

Pay Range - One or more specific pay rates having a percentage relationship to one another, assigned to a class of positions as the compensation for that class.

Pay Rate - A specific dollar amount, expressed as either an annual rate, a monthly rate, a semi-monthly rate, a bi-weekly rate, or an hourly rate, as shown in the pay plan of the City.

Personnel Officer – the City Manager or their designee as provided by Section 3.04 of the Charter of the City of Fairmont.

Position - Any office or employment, whether occupied or vacant, full-time or part-time, consisting of duties and responsibilities assigned to one individual by competent authority.

Probationary Period - The working test or trial period of employment beginning with the date of any employee's first appointment to the classified service.

Promotion - Assignment of an employee from one class to another which has a higher maximum rate of pay.

Regular Appointment - An appointment without time limitation, or special restrictions as to continued employment, to a permanent position authorized to be filled and made as a result of a certification as prescribed by these Rules.

Removal - Separation of an employee on probation or for failure to meet legal requirements of employment.

Suspension - An enforced leave of absence for disciplinary purposes or pending investigation of charges made against an employee.

Tardiness - The quality or fact of being late to arrive at the start of the workday.

Transfer - Assignment of an employee from one position to another position. Transfers can take place within a department, between departments, between positions of the same pay range, between positions of the same class, or between positions of different classes.

Work Day - Scheduled number of hours an employee is required to work per day.

SERIES 200 - WAGES, CLASSIFICATION, SELECTION AND HIRING

201 – PAY PLAN

201.1 DEFINITION AND ADOPTION OF THE PAY PLAN

A. INTRODUCTION

1. The Pay Plan includes the adopted pay schedule and the Occupational List of Classes consisting of rates for all classes of positions included in the Classification Plan.
2. The Pay Plan is intended to provide fair compensation for all classes considering the range of pay for other classes, rates of pay for comparable services in private and public employment in the area, cost of living data, other benefits received by employees, the City's financial condition and policy, and other factors. Every three (3) years the Personnel Officer may make or cause to be made comparative studies of all factors affecting the level of salary ranges.

B. DEDUCTIONS

The payroll clerk is authorized to make established deductions from an employee's gross pay to cover Federal and State income taxes, contributions for retirement systems, and for employee group life and hospitalization premiums and other statutory or court ordered deductions. With the approval of the Personnel Officer or their designee, an employee may authorize the payroll clerk to make other payroll deductions.

201.2 ADJUSTMENT OF THE PAY PLAN

AMENDMENT

1. The annual, hourly, and weekly pay rates for different classes of positions which are prescribed in these Rules shall be changed only by amendment of the Pay Plan Ordinance by City Council. Any amendment shall be prospective in nature.

SERIES 200 - WAGES, CLASSIFICATION, SELECTION AND HIRING

202 - EMPLOYMENT AND RESIDENCY REQUIREMENTS

202.1 ADVERTISEMENT OF POSITIONS

All employment positions will be advertised in the City's Personnel Office and in each city department. Positions may also be advertised in professional journals, local newspaper and other newspapers, social media, public announcement, and online job services as deemed appropriate by the Personnel Officer. Provided however, that if said employment position shall be filled by promotion in accordance with Series 205 of these rules, or by reorganization in accordance with a reorganizational plan approved by City Council from the ranks of present employees, it shall not be necessary to advertise any such position in accordance with this rule.

202.2 TYPE OF EXAMINATION

All applicants for positions in the classified service of the City shall be subject to evaluation based on merit and fitness.

202.3 ENTRANCE EXAM COMPONENTS

Evaluation will include one or more of the following components:

- A. Written Test
- B. Performance Test
- C. Oral Test/Interview
- D. Physical Test
- E. Experience Evaluation
- F. Training Evaluation
- G. Fingerprinting
- H. Polygraph
- I. Any other qualifications, which, in the judgment of the Personnel Officer are applicable

202.4 REFERENCES

As part of the pre-employment procedure, former supervisors and employers may be contacted, and references provided by candidates may be checked. Reference checks made by personal or telephone contact shall be documented and made part of the applicant's file. All such information is to be handled as privileged information.

202.5 MEDICAL EXAMINATION

Applicants offered a full-time or part-time classified appointment shall undergo a pre-employment physical examination including drug and alcohol testing attesting to fitness to perform duties of the position for which the applicant seeks employment.

202.6 RESIDENCY REQUIREMENT

A. There shall be no residency requirement for employment with the City of Fairmont, except for police and fire employees appointed pursuant to provisions of West Virginia Code §8-14-6 et seq., or West Virginia Code §8-15-11 et seq., as hereinafter provided.

B. FIRE EMPLOYEES

1. Any fire employee appointed pursuant to the provisions of West Virginia Code §8-15-11 et seq., to a position in the City of Fairmont Fire Department shall within one (1) year of the date of appointment establish and at all times during the tenure of employment with the City of Fairmont and as a means of continuous employment maintain a bona fide residence and become domiciled within 15 air miles of the pinnacle of the dome of the Marion County Courthouse located at 211 Adams Street, City of Fairmont, Marion County, West Virginia.
2. Any fire employee now holding an appointment in the fire department to which said employee was appointed pursuant to the provisions of West Virginia Code §8-15-11 et seq., and not residing within 15 air miles of the pinnacle of the dome of the Marion County Courthouse located at 211 Adams Street, City of Fairmont, Marion County, West Virginia, shall, if said employee changes their primary residence on or after the effective date of this ordinance, establish and at all times thereafter during the remainder of the tenure of said employment with the City of Fairmont and as a means of continuous employment maintain a bona fide residence and become domiciled within said 15 air miles.

C. POLICE EMPLOYEES

1. Any police employee appointed pursuant to the provisions of West Virginia Code §8-14-6 et seq., to a position in the City of Fairmont Police Department shall within one (1) year of the date of appointment establish and all times during the tenure of employment with the City of Fairmont as a means of continuous employment maintain a bona fide residence and become domiciled within the boundaries of the counties of Marion, Monongalia, Harrison or Taylor, West Virginia.
2. Any police employee now holding an appointment in the police department to which said employee was appointed pursuant to the provisions of West Virginia Code §8-14-6 et seq., and not residing within one of the counties of Marion, Monongalia, Harrison, or Taylor, West Virginia, shall, if said employee changes their primary residence on or after the effective date of this ordinance, establish and at all times thereafter during the remainder of the tenure of said employment with the City of Fairmont and as a means of continuous employment maintain a bona fide residence and become domiciled within one of said counties.

D. The use of a post office box or a residence address for mailing purposes shall not be considered a bona fide residence for purposes of this Rule.

E. **PENALTY**

Notwithstanding any other provision of these Rules to the contrary, including Series 402 Separation and Discharge, any employee failing to comply with the provisions of this section shall be terminated and discharged from employment with the City of Fairmont.

SERIES 200 - WAGES, CLASSIFICATION, SELECTION AND HIRING

203 – CLASSIFICATION PLAN

203.1 DEFINITION

The Personnel Officer shall establish and maintain the Position Classification Plan that provides the basis for recruitment, selection, promotion, development, and compensation of City employees.

- A. Positions shall be grouped into classes. Each class shall include positions with similar duties and responsibilities so that similar requirements as to training, experience, knowledge, skill, personal qualities, and an equitable rate of compensation are applicable to all.
- B. The class title is the official designation or name of the class to which a position has been assigned on an objective basis. It shall be used on all personnel records and actions.

203.2 EMPLOYMENT TYPES

- A. Full-Time Employee is one who works full time on a regular and continuing basis.
- B. Seasonal Employee is one who works on a regular and/or recurring basis during a specific "season" or portion of the year.
- C. Summer/Student Intern Appointment has the purpose of affording students the opportunity to gain active work experience.
- D. Part-Time Employee is one who works less than a normal work week on a regular and continuing basis.

203.3 RESPONSIBILITY OF MANAGEMENT

Department heads shall be responsible for bringing to the attention of the Personnel Officer:

- A. The need for new positions.
- B. Material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classification of positions.

203.4 USE OF PLAN

- A. Each position description shall outline the main characteristics and qualifications of positions in the class and indicate duties which employees may be expected to perform. These are descriptive and explanatory but not restrictive. The listing of particular examples of duties does not preclude the assignment of other tasks.

- B. An employee may be required to perform duties described in the position description and other duties where the employee meets the assignment qualifications.

203.5 ADDITIONAL QUALIFICATIONS

In addition to the specific qualifications identified in the position description, all positions shall require the ability to read and write, acceptable physical condition, honesty, sobriety, and a record of law-abiding citizenship.

203.6 PAYMENT IN LIEU OF PERCENTAGE INCREASE

Notwithstanding anything in these rules to the contrary, the City Manager, at their discretion upon such terms and conditions as are fiscally prudent, may recommend to Council and Council may approve a payment to the City's employees in lieu of a percentage pay rate increase or base increase to the Pay Plan.

203.7 EMPLOYEE REQUEST FOR RECLASSIFICATION AND PAY ADJUSTMENT

An employee may present a request to have their position reclassified under the Classification and Pay Plan. Requests are to be directed to the Department Head but there is no guarantee of approval.

SERIES 200 - WAGES, CLASSIFICATION, SELECTION AND HIRING

204 - PAY PLANS THAT CONTAIN SALARY RANGES

204.1 ENTRANCE SALARY RATES

- A. Starting Rates on Initial Employment - Original appointment to any position shall be made at the entrance rate.
- B. Starting Rate on Return to Duty - An employee returning to duty in the same class or position after any separation from the City service of not more than one year, which separation was not due to discreditable circumstances and/or termination may be classified at their step and range at time of separation.

204.2 ADVANCEMENT WITHIN A SALARY RANGE

- A. On Completion of Probation - Upon satisfactory conclusion of the probationary period after initial appointment, the entrance salary of the employee may be advanced one increment. If this does not equal the maximum salary for the position, the employee's salary shall be advanced one extra increment annually until the maximum salary is reached.
- B. Meritorious Advancement - Employees who have exhibited outstanding ability and exemplary effort may be advanced one increment by the City Manager until their salary reaches the maximum salary established for the position.
- C. Requirement as to Continuity of Service - Service requirements for advancement within pay ranges and for other purposes as specified in these rules shall have the implication of continuous service

204.3 EMPLOYEE REQUEST FOR RECLASSIFICATION AND PAY ADJUSTMENT

An employee shall have the right to have their request considered with respect to the application of the Classification and Pay Plans to their position. Requests are to be directed to the Department Head but there is no guarantee of approval.

204.4 PAYMENT IN LIEU OF PERCENTAGE INCREASE

Notwithstanding anything in these rules to the contrary, the City Manager, in their discretion upon such terms and conditions as are fiscally prudent, may recommend to Council and Council may approve a payment to the City's employees in lieu of a percentage pay rate increase or base increase to the Pay Plan.

SERIES 200 - WAGES, CLASSIFICATION, SELECTION AND HIRING

205 - PROMOTION, REORGANIZATION, RECLASSIFICATION, AND TRANSFERS

205.1 PROMOTION POLICY

The City will attempt to fill all vacancies for supervisory, skilled and upper-level positions from the ranks of present employees. All employees seeking promotions shall file an application similar to those filed by outside applicants. Some positions may also require a resume attachment.

205.2 REORGANIZATION POLICY

The City will attempt to first fill all positions and/or vacancies created by a reorganizational plan approved by City Council from the ranks of present employees by transfer, promotion or otherwise. Any employee interested in seeking a position created by such a reorganizational plan shall file an application similar to those filed by outside applicants. Some positions may also require a resume attachment.

205.3 RECLASSIFICATION

The reclassification of an employee's position or transfer from one class to another class shall result in a salary change consistent with the current pay plan for the new classification. The promotion of any employee to a class with a higher salary shall include an increase in salary to the minimum for the new classification. If an employee is reclassified or demoted to a lower classification, the salary shall be reduced consistent with the current pay plan.

205.4 PAY RATES IN TRANSFER, PROMOTION OR DEMOTION

If an employee is transferred, promoted, or demoted, their rate of pay for the new position shall be determined upon reclassification by the Personnel Officer and consistent with the current pay plan.

SERIES 200 - WAGES, CLASSIFICATION, SELECTION AND HIRING

206 – NEPOTISM

- A. To maintain the highest level of trust and support from the community, to avoid situations that might result in unfair or preferential treatment of employees and/or the public, and to avoid any appearance of conflict of interest, the City may limit the employment and work assignment of employees, regardless of category, that are related to each other or to a current City Official.
- B. Members of the same family are eligible for employment with the City; however, such employment may not result in a City Official or an employee directly supervising a member of their immediate family.
- C. If a condition prohibited by "B" above predates this policy, the City will not require a job change on the part of the affected employees, but may seek to make an appropriate job change when opportunity permits.
- D. Employees of the City who become relatives after the effective date of these provisions and do not conform to these nepotism regulations shall come into compliance with these provisions. The City will make reasonable efforts to assign job duties so as to minimize problems of supervision, safety, security or morale.
- E. If no reasonable effort and solution can be found to alleviate the problem of supervision, safety, security or morale, the City Manager shall determine whether, and under what circumstances, if any, both employees may be permitted to remain in their then current positions. In making such a determination, the City Manager shall give primary consideration to the operational needs of the City, including interests of the economy, efficiency and effectiveness. The City Manager shall also consider the work history and seniority of the affected employees.
- F. Definitions:
 1. For purposes of this rule, a family member, whether by blood, adoption, marriage, or domestic partnership, includes:
 - Spouse;
 - Domestic partner;
 - Child;
 - Parent;
 - Grandparent/Grandchild;
 - Aunt/Uncle;
 - Sibling;
 - Niece/Nephew;
 - Individuals in a loco parentis relationship;
 - Individuals in a legal relationship; and
 - Any corresponding in-law, step, or foster relation

2. City Official is any individual elected or appointed to a position.
3. Employees are individuals hired through an application process to serve the City of Fairmont.

SERIES 300 - SCHEDULES AND WORK HOURS

301 - SERVICE HOURS IN EXCESS

301.1 EXEMPT EMPLOYEES

It shall be incumbent upon employees who meet the definition of exempt under the Fair Labor Standards Act (FLSA) to perform service in excess of normal working hours from time to time. Acceptance of an exempt position shall be deemed an agreement thereto and recognition of the necessity of service because of the exempt nature of the employment. In consideration of such additional service, such exempt employee may receive time off subject to the approval of the City Manager or Department Head. Such leave shall not be considered overtime, compensatory time, nor shall it be compensable upon termination of employment with the City. The leave granted by the City Manager or Department Head shall not be on a prorated basis, nor shall it be counted against the exempt employee's vacation leave.

301.2 NONEXEMPT UNREPRESENTED EMPLOYEES

Any overtime, whether paid or by comp time, MUST be pre-approved by the employee's supervisor or Department Head. At the discretion of the Department Head, overtime will be paid for hours worked in excess of 40 hours at a rate of time and one half. Once the budget is exhausted, comp time will be earned. Comp hours should be taken within 30 days of being earned. Longer terms shall be considered at the discretion of the Department Head.

301.3 PYRAMIDING

There shall be no pyramiding or duplications of any overtime, premium, and regular pay. If overtime, premium, and/or regular pay is applicable to the same hours under any two or more provisions of these rules, only the single highest overtime, premium or regular pay required under any one rule shall be paid.

301.4 MANAGEMENT AND DIRECTION OF WORKING FORCES

The City reserves and retains unimpaired the exclusive right to govern the City and to direct, control and schedule its operation and work force. Such prerogatives shall include, but not be limited to, the right to hire, select, and determine the number of its employees (including the number assigned to any particular work) promote, layoff, assign, transfer, discharge, or discipline for just cause, maintain discipline and efficiency of operation, make and enforce reasonable rules and regulations governing the conduct and acts of employees during work hours, determine the location and types of operation, determine and schedule when overtime shall be worked, install or remove equipment, determine the methods, procedures, and materials to be utilized, determine work duties and qualification of employees, discontinue, subcontract, reorganize or combine operations and/or any part of operations, introduce new and improved methods and facilities, train employees, determine work performance levels and standards of performance of employees.

SERIES 300 - SCHEDULES AND WORK HOURS

302 - PAID LUNCH PERIOD

Each City full-time employee or part-time employee working 6+ hours in a work day shall have a paid lunch period of one-half hour. The setting of starting time and ending time of lunch periods shall remain with each department's supervisor.

SERIES 300 - SCHEDULES AND WORK HOURS

303 - LAYOFFS

The merit principle recognizes that continued employment shall be based on an individual's ability to perform a particular job and that a position shall be subject to good behavior, satisfactory performance of work, need for the position, and availability of funds.

303.1 LAYOFF PROCEDURES

Procedures for reductions in force shall be applicable when more than one employee works in a department with the same classification, position, pay and duties. When performance is equal, then seniority shall dictate the order of layoff.

303.2 RECALL PROCEDURES

Workers will be recalled in reverse to that from which they were laid off, providing they are able to perform the work satisfactorily. If an employee refuses recall to a job classification that they can perform, recall rights will be forfeited and the City will consider this a resignation.

SERIES 400 – PERFORMANCE STANDARDS, DISCIPLINE AND SEPARATIONS

401 – PROBATIONARY PERIOD

401.1 NATURE, DURATION, AND PURPOSE

For employees covered by these rules, persons newly appointed or promoted to a position shall be on probation for ninety (90) days after date of hire in that position. The probationary period may be extended for an additional period of up to ninety (90) days, if requested by the Department Head and approved by the Personnel Officer. The probationary period shall enable the supervisor to monitor the employee's work performance.

401.2 POLICE AND FIRE PROBATIONARY PERIOD

New appointments to the Police Department or Fire Department shall serve the requisite probationary period provided by West Virginia Code §8-14-11 and §8-15-16, respectively.

401.3 CONDITIONS PRELIMINARY TO PERMANENT STATUS

Department Heads will review the performance of probationary employees every thirty (30) days and recommend to the Personnel Officer whether or not the employee should be accorded full-time status.

401.4 SEPARATION DURING THE PROBATIONARY PERIOD

An employee may be dismissed at any time without right of appeal during the initial probationary period and/or any extended probationary period.

401.5 ACCRUED PAID LEAVE DURING PROBATIONARY PERIOD

Vacation and sick leave shall accrue but shall not be utilized during probationary period. Probationary employee shall not receive any accrued leave payout upon termination.

401.6 BEREAVEMENT LEAVE AND JURY DUTY LEAVE

May be utilized during the probationary period with prior authorization. Depending on the amount of leave taken, probationary period may be extended.

SERIES 400 – PERFORMANCE STANDARDS, DISCIPLINE AND SEPARATIONS

402 – DISCIPLINE, RESIGNATIONS, RETIREMENT AND EXIT PROCESS

402.1 DISCIPLINARY ACTION

It is the responsibility of all employees to observe regulations necessary for the proper operation of government functions. Administrative procedures have been established for the handling of disciplinary measures such as dismissal, reprimand, suspension and demotion.

A. EMPLOYEE AND SUPERVISOR RESPONSIBILITIES

1. An employee shall correct any faults in performance when called to their attention and shall abide by the City's rules and regulations.
2. Every supervisor will encourage quality performance by recognizing satisfactory and outstanding employee performance. Every supervisor shall also discuss improper or inadequate performance with employees in order to correct the deficiencies and to avoid the need to exercise disciplinary action. Discipline shall be, whenever possible, of an increasingly progressive nature. Generally, the steps of progression are: 1) warning, 2) written reprimand, 3) suspension, 4) demotion (if a lower position is available) and 5) dismissal. The employee and supervisor will be required to acknowledge each step by signature.
3. **Verbal Warning** - Whenever grounds for disciplinary action exist, and the supervisor determines that more severe action is not required or not yet warranted, the supervisor should verbally communicate to the employee the observed deficiency or violation. This verbal warning shall be documented as to the date and nature of the warning.
4. **Written Reprimand** - A department head may reprimand an employee in writing. Such reprimand should be addressed to the employee and a signed copy should be delivered to the Personnel Officer for inclusion in the employee's personnel file.
5. **Suspension** - A department head, with the concurrence of the City Manager, may suspend without pay, a regular employee for up to, but not exceeding three (3) work days as a disciplinary measure. The employee shall be furnished with a written statement setting forth reasons for the suspension.
6. **Demotion** - A Department Head may, with the approval of the City Manager, demote or reduce in salary any regular employee for disciplinary reasons.
7. **Dismissal** - For violation of any of the following charges, employees may be subject to immediate dismissal. The department head must have the concurrence of the City Manager to dismiss an employee. The dismissed

employee shall be provided with a letter stating reason(s) for dismissal. The following may be cause (but not the only cause) for dismissal:

- a. Refusal to comply with a lawful instruction
- b. Insubordination
- c. Conviction of a felony while an employee of the City
- d. Deliberate or careless conduct endangering the safety of the employee or others
- e. Indulging in offensive conduct toward the public or other employees
- f. Inducing or attempting to induce any employee to commit an unlawful act in violation of City regulations, official policy or departmental order
- g. Using, threatening or attempting to use personal or political influence in an effort to secure special consideration
- h. Incompetency and inefficiency in the performance of job duties resulting in two consecutive unsatisfactory ratings on performance evaluations
- i. Gross carelessness or gross negligence with City monies or property
- j. Theft or intentional destruction of City property
- k. Intentional falsification of personnel records, time report, or other City records
- l. Taking for personal use from any person, any fee, gift, or other valuable thing in the course of the employee's work or in connection with it, when such gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons
- m. Engaging in outside business activities on City time, or using City property for such activity in violation of these rules
- n. Failure to maintain a satisfactory attendance record (excessive absenteeism and/or tardiness)
- o. Conviction of the possession or sale of a controlled substance

B. RETENTION OF DISCIPLINARY MATTERS

Letters or notes of a disciplinary nature that are placed in an employee's file will be removed after three (3) years provided that the employee's conduct and performance have been satisfactory for that period.

402.2 RESIGNATIONS

- A. An employee will be regarded as having resigned a position if they are absent without authorization.
- B. An employee shall give the department head written notice at least two (2) weeks before the effective date of the resignation.
- C. A resignation made without the notice required by these rules may result in forfeiture of accrued benefits at the discretion of the City Manager.

402.3 RETIREMENT

- A. At least six (6) months prior to consideration of retirement, please confirm your eligibility/termination benefits based on your date of hire with the Finance Department.
- B. For retirement estimates and application packets for both West Virginia Public

Employees Retirement System (WV PERS) and Municipal Police and Fire Retirement System (MPFRS), employees will need to contact the West Virginia Consolidated Public Retirement Board (WV CPRB).

- C. For Police and Fire Pensions, the retiring employee must contact their Pension Secretary for an application.

402.4 EXIT INTERVIEW AND OFFBOARDING PROCESS

- A. Any employee, either by retiring or by voluntary resignation, will be required to attend an Exit Interview with a representative from the Finance Department and/or Human Resources on their last working day. If the last working day is on a weekend or a holiday, the Exit Interview will take place on the weekday prior to a weekend or holiday.
- B. The employee's supervisor and/or Department Head shall also attend the Exit Interview.
- C. The purpose of the Exit Interview is to assess the employee's overall experience with the City of Fairmont and to identify opportunities to improve retention and recruitment:
 - 1. Review the employee's accrued leave balances and final pay.
 - 2. Discuss health insurance and contributions to PERS or MPFRS.
 - 3. Obtain passwords for computer, telephone, computer programs, etc.
 - 4. Obtain keys to building(s), equipment, vehicles.
 - 5. Return City-issued uniforms.
 - 6. Return City-issued photo ID.
 - 7. Return City-issued purchasing card or credit card.
 - 8. Employee will have the opportunity to complete an Employee Survey

SERIES 400 - PERFORMANCE STANDARDS, DISCIPLINE AND SEPARATIONS

403 – DISPUTE RESOLUTION

403.1 GRIEVANCE

A grievance is defined as an alleged violation of the applicable provisions of the Personnel Rules.

403.2 PROCEDURE

A. If any grievance arises, such grievance may be submitted through the following Grievance Procedure:

1. **STEP ONE:** If an employee feels they have a grievance, they shall, within five (5) working shifts of the alleged violation occurred or knowledge thereof, present a written grievance to their immediate supervisor (if the aggrieved employee's supervisor is the Department Head, proceed to Step Two). Unless the supervisor determines otherwise, a meeting will occur immediately or before the end of the employee's work shift. The supervisor shall submit their answer within three (3) working shifts after its presentation. If the grievance is not satisfactorily resolved, the employee may escalate their grievance to the next higher ranked supervisor. If the grievance is not satisfactorily resolved after escalating the grievance through Step One, then the employee may submit a written grievance per Step Two.
2. **STEP TWO:** If the grievance is not resolved in Step One, the employee may reduce their grievance to writing, within five (5) working shifts, and present the grievance to their Department Head for a written answer. At a minimum, the grievance shall name the employee(s) involved, shall state the facts giving rise to the grievance, shall identify the provision(s) allegedly violated by appropriate reference, shall state the contention of the employee with respect to these provisions, shall indicate the relief requested, and shall be signed by the employee. The Department Head shall give the employee an answer, in writing, no later than ten (10) working days after receipt of the written grievance.
3. **STEP THREE:** If the grievance is not resolved in Step Two, the employee may, within five (5) working shifts after the receipt of the answer in Step Two, appeal the grievance to the City Manager. The appeal shall be in writing and it shall include the written grievance and the Department Head's answer and shall specify the basis of the appeal. A copy of the appeal shall be sent to the Department Head. The City Manager has the option to schedule a meeting with the employee, Department Head, and/or both. If a meeting is scheduled, it will be at a mutually agreeable time and will take place within ten (10) working days after receipt of the written appeal. The City Manager, or their designated representative, shall give the employee

an answer in writing, which answer shall be final, no later than ten (10) working days after receipt of the written appeal or meeting, whichever is later. Additional time may be allowed by mutual written agreement of the City of Fairmont and the employee.

- B. Any grievance not filed within the prescribed time limit or not advanced to the next Step by the employee within the time limit in that Step shall be deemed abandoned.
- C. If a supervisor or the Department Head does not answer a grievance within the time limits prescribed in this Procedure, the grievance will be considered automatically referred to the next Step of the Grievance Procedure.

403.5 – WORK DAYS AND WORKING SHIFTS

“Work Days” for the purpose of this Procedure shall be Monday, Tuesday, Wednesday, Thursday, and Friday, excluding observed holidays.

“Working Shifts” for the purposes of this Procedure shall be any day that the respective employee’s assigned shift is scheduled to work, excluding observed holidays.

403.6 – GROUP GRIEVANCE

A matter involving several employees and the same question may be submitted by the group as a policy grievance and entered directly at Step Two of the Grievance Procedure. Separate grievances, timely filed under the Grievance Procedure, arising out of the same or similar set of facts or incident shall be consolidated and handled as one grievance.

SERIES 400 - PERFORMANCE STANDARDS, DISCIPLINE AND SEPARATIONS

404 – EMPLOYEE PERFORMANCE

404.1 PERFORMANCE APPRAISAL

The City Manager shall, in cooperation with appointing authorities and others, develop and adopt a system of appraising the performances of employees in the classified service for purposes of employee development and improving work performance.

404.2 PROGRAMS TO IMPROVE EFFICIENCY OF EMPLOYEES

The City Manager shall cooperate with appointing authorities in developing and promoting programs for employee training, safety, morale, work motivation, health, counseling, and welfare.

SERIES 400 - PERFORMANCE STANDARDS, DISCIPLINE AND SEPARATIONS

405 - PERSONNEL RECORDS

405.1 EMPLOYEE FILE

For each City employee a personnel file shall be maintained in the office of the City Manager and/or Human Resource Manager. The file shall include, but not be limited to:

- A. The original application for employment or examination;
- B. Signed Code of Ethics statement;
- C. Copy of West Virginia Employees Retirement Application;
- D. Payroll authorizations;
- E. All performance evaluations, commendations, and disciplinary actions;
- F. Whatever additional information is required by these rules or the City Manager or Human Resource Manager

405.2 RETENTION PERIOD

The personnel file shall be retained in the office of the City Manager for at least five (5) years after termination of employment. Refer to Series 402.1.B regarding retention of disciplinary matters.

405.3 REVIEW OF FILES

An employee will have the right to review their personnel file during normal working hours at a time convenient for all parties, and in the presence of the Department Head or their designee, City Manager, and/or Human Resource Manager.

405.4 PHYSICAL COPY OF PERSONNEL FILES

If an employee requests a copy of their personnel file, they must do so through the Freedom of Information Act (FOIA) process.

SERIES 400 - PERFORMANCE STANDARDS, DISCIPLINE AND SEPARATIONS

406 - EMERGENCY MEDICAL TRAINING

- A. Effective January 1, 2003, all paid Civil Service personnel in the City of Fairmont Police and Fire Departments shall be certified in Cardio Pulmonary Resuscitation (CPR) as certified by the American Heart Association. This certification shall be a means of continuous employment with the City.
- B. In addition, beginning April 12, 2003, all existing Civil Service personnel in the City of Fairmont Fire Department shall become certified to the First Responder Level or a higher level of emergency medical certification. The maintenance of said certification shall be a means of continuous employment with the City; provided that any civil service personnel within the City of Fairmont Fire Department who has obtained an EMT and/or paramedic certification shall be given an opportunity to retain said certification(s) in a manner deemed appropriate by the Chief of the Department.
- C. Except for those Civil Service positions enumerated above, all Civil Service personnel in the City of Fairmont Police and Fire Departments employed or hired after April 12, 2002, must obtain and maintain all certifications required by this Rule within 360 days of the date of employment. Certification shall be a means of continuous employment with the City.

SERIES 500 - BENEFITS AND PAID LEAVE

501 – PAID TIME OFF

All leave accrual records are maintained by the Finance Director's Office and shall be the official record.

A completed month of service is 173.33 hours (40 hours per week x 52 weeks per year = 2080 hours per year. 2080 hours per year divided by 12 months is an average of 173.33 hours per month).

501.1 VACATION LEAVE

- A. Vacation leave shall be earned and accrued from the most recent date of employment under conditions herein stated. Accrued vacation leave shall not be taken or utilized during the probationary period.
- B. All unrepresented (non-union) full-time employees in the City's service shall accrue vacation leave as follows:
 - 1. Date of hire through four (4) years of completed service
10 hours for each 173.33 hours worked
 - 2. Five (5) through nine (9) years of completed service
13.3 hours for each 173.33 hours worked
 - 3. Ten (10) through fourteen (14) years of completed service
16.6 hours for each 173.33 hours worked
 - 4. 15 or more years of completed service
20.0 hours for each 173.33 hours worked
- C. All union represented employees, including Firefighters who work twenty-four (24) hour shifts, Steelworkers and Police Officers shall accrue vacation leave as outlined in their respective collective bargaining agreements.
 - 1. An employee may carry over up to forty (40) hours of accrued vacation leave from one calendar year to the next. Any vacation leave in excess of forty (40) hours not taken during the year in which it is earned will be forfeited by the employee. In unusual circumstances, vacation leave in excess of forty (40) hours may be carried forward upon approval, in writing, by the employee's department head
 - 2. Vacation leave credit accumulated by employees as of the date of adoption of this personnel administration policy will not be lost.
 - 3. Employees whose service is terminated through no fault or delinquency of their own shall be eligible to receive all accrued vacation leave.

4. Each Department Head/supervisor shall keep records of vacation leave allowances. It shall be the responsibility of the Department Head/supervisor to schedule vacation leave with particular regard to operational requirements of the department.
5. The above-mentioned vacation allowance records are to be reconciled with the official record maintained by the Finance Director's Office by the Department Heads at the end of each calendar year or immediately upon an employee's termination.
6. An employee on approved leave without pay, or receiving Sick and Accident Benefits as provided in Series 508, or off the payroll for any reason for a period exceeding one-half of the total number of hours they are scheduled to work for each 173.33 hours of work shall not accrue vacation leave during such period, provided however, that any employee who is taking or utilizing accrued leave, shall accrue additional vacation leave.

501.2 SICK LEAVE

- A. All sick leave accrual records maintained by the Finance Director's Office shall be the official records.
- B. An employee may use sick leave in case of actual sickness or disability or for medical, dental, or eye examinations for which arrangements cannot be made outside of working hours; or when the employee is required to care for a sick or injured spouse, child or immediate family member who is under the employee's care; or after exposure to a contagious disease when continuing to work might jeopardize the health of others.
- C. All employees in the City's service, except part-time, temporary, and seasonal employees, shall be entitled to use sick leave with pay after satisfactory completion of their probationary period following initial appointment. Probationary employees shall not be granted use of sick leave.
- D. **ACCRUALS:**
 1. All non-union unrepresented employees in the City's service hired before July 1, 2003, shall accrue sick leave hours at the rate of eight (8) hours pay credit for each completed month of service (173.33 hours).
 2. All non-union unrepresented employees in the City's service hired on or after July 1, 2003, shall accrue sick leave hours at the rate of:
 - a. **Date of hire through four (4) years of completed service**
Four (4) hours for each 173.33 hours worked
 - b. **Five (5) through nine (9) years of completed service**
Six (6) hours for each 173.33 hours worked
 - c. **Ten (10) or more years of completed service**
Eight (8) hours for each 173.33 hours worked

3. All union represented employees shall accrue sick leave hours as outlined in their respective collective bargaining agreements.
- E. Unused sick leave hours may be accumulated from year to year without limitation and such accrued sick leave hours may be used for sick leave purposes while employed with the City and for purposes of determining termination pay according to Series 506.2.D Termination Pay. The provisions of Series 506.2.D Termination Pay schedule shall be applied to all accrued sick leave hours and no employee shall ever be paid for any accrued sick leave above the limitations provided for in said Series 506.2.D regardless of the number of sick leave hours accrued.
 - a. WV PEIA members **hired AFTER July 1, 2001** cannot use sick leave to pay insurance premiums after retirement.
 - b. WV PERS members who **first became members of the retirement system on or AFTER July 1, 2015** cannot use sick leave to acquire additional credited years of service.
 - F. An employee on approved leave without pay, or receiving Sick and Accident Benefits as provided by Series 508; or off the payroll for any reason for a period exceeding one-half of the total number of hours they are scheduled to work for each 173.33 hours of work shall not accumulate sick leave for that particular period, provided however, that any employee who is taking or utilizing accrued leave, shall accrue additional sick leave.
 - G. Sick leave will be charged based on actual time used with a minimum increment of one (1) hour and in 30-minute increments thereafter.
 - H. No paid sick leave shall be allowed for any injury incurred while working for another employer if employee is collecting Workers' Compensation from that employer.
 - I. An employee shall be paid sick leave equivalent to the normally scheduled straight time rate. Overtime rate shall not be paid for sick leave. Employees scheduled to work shifts with premium pay shall receive their normal pay if absent and adhere to preceding sick leave guidelines.
 - J. Physician Certificate - Sick leave for a period greater than three (3) consecutive shifts shall be granted only on the certificate of a reputable physician certifying that the employee was under their care. This certificate shall accompany the timesheet approved by the department head and submitted to the payroll department before the employee will be entitled to receive any pay or be entitled to receive a pay check for the period claimed as sick leave. A Supervisor/Department Head can request physician's certificate documentation for any time period when abuse is suspected.
 - K. Sick leave absences exceeding forty (40) consecutive hours shall require a Return-to-Work (RTW) certificate of a reputable physician certifying that the employee is fit for duty, without restrictions.

501.3 HOLIDAYS

- A. All non-represented employees shall receive the following holidays:

Holidays: New Year's Day, Martin Luther King's Birthday, President's Day, Good Friday, Memorial Day, Juneteenth, West Virginia Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, and Christmas Day.

- B. Nothing herein shall be construed to award holiday pay to any employee on an excused, unpaid leave of absence.
- C. If a holiday falls on an employee's regularly scheduled day off, they shall celebrate such holiday on their closest regularly scheduled working day. An employee shall forfeit their right to payment for any such holiday if they have an unexcused absence on the last regularly scheduled work day preceding such holiday or on the first regularly scheduled work day following such holiday. Nothing herein shall be construed to award holiday pay to any employee on an excused, unpaid leave of absence.

501.4 PERSONAL LEAVE

- A. After completion of the probationary period, full-time, non-represented personnel shall receive sixteen (16) hours of personal leave each calendar year; provided, however, that during the calendar year of initial employment, personal leave shall be received as follows:
1. If hired on or before June 30, an employee shall receive sixteen (16) hours of personal leave after completion of the probationary period.
 2. If hired on or after July 1, said employee shall receive eight (8) hours of personal leave after completion of the probationary period; however, if the hire date is less than ninety (90) days prior to December 31, no personal leave shall be received for that year.
- B. Subject to Department Head/supervisor approval, personal leave may be taken in increments of two (2) hours or greater.
- C. Personal leave must be taken in the calendar year. Unused leave cannot be carried from one year to the next unless circumstances require payment or carryover as approved by the City Manager.

501.5 MILITARY LEAVE

All military leave shall be in accordance with the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA) (Title 38 U.S. Code Chapter 43, Sections 4301-4333), as amended, and the West Virginia Code, as amended.

501.6 BEREAVEMENT LEAVE

- A. An employee may be granted up to five (5) working days paid leave for a death in the "immediate family".

- B. Two (2) working days bereavement leave shall be granted upon the death of an employee's mother-in-law, father-in-law, grandparents, or spouse's grandparents.
- C. One (1) day bereavement leave with regular pay shall be granted upon the death of an employee's brother-in-law, sister-in-law, aunt or uncle.
- D. Probationary employees should refer to Rule 401.6.

501.7 JURY DUTY

- A. An employee called to jury duty shall supply the department with the documentation of the scheduled jury duty dates. The department will record the jury duty leave in the Payroll Time Entry system. The employee shall receive their normal compensation and benefits during jury duty leave. The amount received from the court (excluding any travel allowance) shall be remitted to the City of Fairmont. The amount due the City may be reimbursed with a personal check made payable to the City of Fairmont or deducted from the employee's pay. A copy of the jury duty paperwork and check received from the court must be supplied to the Finance Department.
- B. Probationary employees should refer to Rule 401.6.

SERIES 500 – BENEFITS AND PAID LEAVE

502 - WORKERS' COMPENSATION

The City of Fairmont provides Workers' Compensation coverage as outlined by West Virginia State Code.

502.1 REPORTING

All details of accidents/injuries must be reported IMMEDIATELY to the employee's supervisor or the responsible representative of the employer. The supervisor and employee are to complete a First Report of Injury form and forward it to the Personnel Officer within twenty-four (24) hours of accident/injury or in extreme circumstances, as soon as possible.

502.2 PROCEDURE

The injured employee must seek medical attention immediately, if warranted. Injured employees may go to the closest emergency room or urgent care provider for care and treatment. It is the responsibility of the employee to ensure that the selected care center be advised that they are being seen and treated for a Workers' Compensation claim and that the provider complete Workers' Compensation Form SIWC-1. A copy of the form must be provided to the Human Resource Manager on the next business day.

502.3 SUBMITTING A CLAIM

- A. A claim must be submitted, on the appropriate Workers' Compensation injury report form to the West Virginia Workers' Compensation Division within six (6) months from the date of the injury or the claim is barred by law.
- B. It is the responsibility of the claimant to submit a completed workers' compensation accident/injury form to the employer.
- C. It is the employer's responsibility to complete Section III on the Workers' Compensation Accident/Injury Form and submit it to the West Virginia Workers' Compensation Division.

502.4 LIMITATION PERTAINING TO PHYSICAL ACTIVITY

- A. It is presumed that the granting of Total Temporary Disability benefits under the West Virginia Workers' Compensation Act benefits are due to employee's inability to perform duties and activities of their job. Therefore, the City is assuming that said state will preclude the employee from conducting normal activities.
- B. Whenever an employee receiving Workers' Compensation benefits and utilizing sick leave must travel to and from a doctor's office, clinic, hospital, or other related health care facility, the employee may be required, upon request by their immediate supervisor, Department Head, or the Personnel Officer, to call in to their Department Head and state their itinerary. Any other activity observed which does

not fall in preceding categories shall be grounds for termination of benefits until the time the employee returns to work and/or recovers from the ailment of record for granting such leave. Furthermore, the City will investigate the site of unauthorized activity, and subject to findings of investigation, may proceed with disciplinary action against the employee.

- C. Employees eligible to receive additional disability monies from other or collateral sources during temporary or permanent disability shall have the City's share reduced accordingly; such that when aggregated with the monthly amount of City Workers' Compensation and other payments, the disabled employee shall not receive a total monthly income in excess of one hundred percent of their basic compensation.

SERIES 500 – BENEFITS AND PAID LEAVE

503 - FAMILY AND MEDICAL LEAVE

503.1 FMLA

- A. The City of Fairmont is a covered employer under the Federal Family Medical Leave Act (FMLA). Therefore, the City is required to follow U.S. Code, Title 29 – Labor, Chapter 28 – Family Medical Leave, and encompasses this U.S. Code section into Series 503 of these Personnel Rules.
- B. Details of the FMLA can be found at:
<http://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter28&edition=prelim>
- C. The City defines the “Twelve Month Period” referenced in the code as the calendar year beginning January 1 and ending on December 31.
- D. The City defines an “Eligible Employee” referenced in the code as one who has worked for the City of Fairmont for at least twelve (12) months and has worked at least 1,250 hours during the twelve (12) months immediately preceding the requested leave.
- E. Where a term is defined in the FMLA statute, that definition will be incorporated into this policy.

503.2 Administrative Requirements

- A. Employees have the right to use any paid leave, for which they may be qualified, in conjunction with unpaid FMLA leave. Workers’ compensation related absences will also count as FMLA leave provided the employee has a serious health condition. The period of this paid leave will be counted against the employee’s total FMLA leave entitlement as if it were substituted for the FMLA leave.
- B. Employees must give thirty (30) days advance notice of the intent to take a 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. Failure to give adequate notice as outlined above may result in a delay of up to thirty (30) days before the FMLA leave will be granted.
- C. When requesting intermittent leave for medical treatments, employees must make reasonable efforts to schedule leave so as to not unduly disrupt operations. Employees may be required to provide a medical certification from an appropriate health care provider to support a FMLA request related to a serious health condition. A form will be provided to the employee. This certification must be returned within fifteen (15) days. Failure to do so will result in a denial of leave until such certification is provided. If any employee provides medical certification that is questionable or inadequate, the employee will be referred to a second health care provider, at the City’s expense. If the first and second providers’ 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.

- D. Employees on FMLA leave will be required to submit periodic recertifications or updated reports regarding the family member or employee's current status. If the employee's return to work date differs from that which was previously identified when the leave was granted, then employees must give two (2) days advance notice of their intent to return to work. Failure to give the two (2) day advance notice may result in a two (2) day delay in the employee's actual return to work, which delay shall be without pay.
- E. In most instances, an employee returning from FMLA leave will be restored to the position previously held prior to the FMLA leave, provided that position remains available. If that position is unavailable, the employee will be reinstated to an equivalent position with equivalent pay and benefits, provided such a position exists. An employee taking a FMLA leave is not entitled to any greater right to reinstatement or other benefits that if continuously employed during the leave period.
- F. If FMLA leave is requested on a reduced or intermittent basis, the employee's hours may be altered or the employee may be transferred instead to an available alternative position for which the employee is qualified and which better accommodates the recurring periods of leave necessitating the request. An employee taking a FMLA leave due to a serious health condition must present certification that they are fit for duty prior to reinstatement. Failure to provide the requisite certification will result in denial of restoration of employment.

503.3 Health Care Benefit Continuation

- A. Health insurance coverage will continue through the duration of the FMLA leave. The conditions under which such coverage is provided will be the same as if the employee were actively working. The employee's share of any health plan premiums, if any, must continue to be paid by the employee while on FMLA leave, and payments are due at the same time as if made by payroll deduction, unless otherwise agreed upon. If an employee's share of any health insurance premium is delinquent for more than thirty (30) days, the employee's share of any health coverage will be terminated, provided we notify you in writing within 15 days prior to cancellation. If coverage is not terminated and the City elects instead to pay the entire premium, the amount of the employee's delinquency will be recovered from the employee after the employee returns to work.
- B. If an employee fails to return to work after FMLA leave has expired, the City may recover the cost of any premiums it paid during the employee's 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 at the expiration of the FMLA leave is considered to have failed to return to work for purposes of this paragraph and shall be considered "Absent Without Leave" and shall be considered as quitting without notice.
- C. The City will not interfere with an employee's rights under FMLA. No person shall be discriminated against for exercising their rights under the FMLA.

SERIES 500 – BENEFITS AND PAID LEAVE

504 - PENSION

- A. Full-time employees shall be required to participate in the West Virginia Public Employees Retirement Act and are bound by all provisions of said Act and rules and regulations of the Board of Trustees of the System.
- B. Employees of the Police Department who are covered by Civil Service and are **hired on or before December 31, 2017**, shall participate in the Fairmont Police Pension and Relief Fund in accordance with West Virginia Code, Chapter VIII, Article 22, Section 16 to 28.

Employees of the Fire Department who are covered by Civil Service and **are hired on or before December 31, 2017**, shall participate in the Fairmont Fire Pension and Relief Fund in accordance with West Virginia Code, Chapter VIII, Article 22, Section 16 to 28.

- C. Employees of the Police and Fire Departments who are covered by Civil Service and are **hired on or after January 1, 2018**, shall participate in the Municipal Police Officers and Firefighters Retirement System (MPFRS) in accordance with West Virginia Code, Chapter VIII, Article 22A, Section 28.

SERIES 500 – BENEFITS AND PAID LEAVE

505 - EDUCATIONAL AND TRAINING EXPENSES

505.1 TUITION REIMBURSEMENT

Policy - The City realizes that it is to its benefit for employees to continue their education in their related field. Therefore, for employees who have worked continuously for at least 12 months prior to the date of application for consideration, the City will reimburse the employee, according to the following expenses incurred for continuing education, as long as funds are within budget:

- A. **University and/or College Classes** - The City will reimburse one half of the tuition costs for employment-related courses at Fairmont State University, Pierpont Community and Technical College, West Virginia University, or another West Virginia university or college's online program up to a Bachelor's Degree if the employee makes their request in writing and the proposed course is approved in advance by the Department Head and the employee completes and passes the course with at least a grade of "C" or its equivalent. Reimbursement will be made to the employee upon the completion of the courses.
1. **Educational Class Expense Limit** – Pre-approved educational class costs in excess of \$100.00 will be reimbursed upon completion of the Educational Expense Reimbursement Form and Voucher Request Form with class grade and receipts attached. Reimbursements in excess of the amount set by the IRS in Publication 15-B Employer's Tax Guide to Fringe Benefits Educational Assistance will be taxable to the employee and added onto their W-2 in the year reimbursement was received.
 2. Employee must use accrued leave to attend classes or to complete course work. Employee is not permitted to attend classes or complete course work during work hours.
 3. Employee is not permitted to use City equipment or resources, such as printers, copiers, paper, computers, etc. to complete course work.
 4. In instances where an employee receives other financial assistance (i.e., Pell Grant, scholarship), the City's educational assistance will apply only to those amounts not covered by those sources.
 5. The employee must agree, in writing, to remain with the City at least one (1) year after completion of university and/or college classes if the City has paid a portion of the costs greater than \$1,000.00 or agree to reimburse the City by having the amount deducted from their final paycheck.

505.2 OTHER EDUCATION AND TRAINING EXPENSES

- A. Employees wishing to attend training seminars, workshops, or obtain other certifications pertaining to their position must receive prior approval of the Department Head or City Manager, as applicable, if the City is to pay any portion of the cost or if it is to be conducted on City time. In addition to prior approval, sufficient funds must have been budgeted to cover expenses.
- B. Department Heads are encouraged to participate in their field's professional organizations. The City may pay the membership dues and reasonable expenses to attend annual conferences of their professional organization if prior approval of the City Manager is obtained and sufficient funds have been budgeted to cover expenses.
- C. The employee must agree, in writing, to remain with the City at least one (1) year after completion of training if the City has paid a portion of the costs greater than \$1,000.00 or to reimburse the City by having the amount deducted from their final paycheck.

SERIES 500 - BENEFITS AND PAID LEAVE

506 – TERMINATION PAY

506.1 TERMINATION PAY

- A. Whenever an employee's service with the City is terminated, whether it is voluntary or involuntary, the employee shall be eligible for termination pay. Termination pay shall be paid in one lump sum. The payment shall be made on the payday following the employee's termination of service; provided, however, that upon the finding that such termination payday creates an unnecessary hardship within in the City of Fairmont as a result of the civil service provision of the West Virginia Code for paid police and fire departments, the City Manager shall have the authority to determine a different termination pay date. Upon cessation of active employment, the employee shall no longer continue to earn sick leave, vacation, holidays, or other benefits.
- B. Probationary employees will only be paid for earned salary upon exit. No other accrued leave such as vacation, personal or sick leave will be paid.

506.2 TERMINATION PAY SCHEDULE

Except as provided by Series 402.3.C of these Rules, upon termination from the City's employ, employees shall receive termination pay determined as follows:

- A. **SALARY** shall be paid at 100% accrued as of the date of termination;
- B. **VACATION** leave shall be paid at 100% accrued as of the date of termination;
- C. **PERSONAL** leave shall be paid at 100% accrued as of the date of termination;
- D. Accumulated **SICK** leave shall be paid as follows:
 - 1. Persons with an initial hire date before July 1, 2003, shall not be paid nor receive more than 720 hours accrued sick leave for termination pay purposes or extended health insurance premium payments; provided however, any such employee who had accrued in excess of 720 hours leave prior to July 1, 1992 shall receive that amount and no greater for termination pay or extended health insurance premium payments.
 - a. For employees who have more than 720 hours accrued sick leave as of July 1, 1992, the following schedule shall apply:

720 hours of accrued sick leave at 75% - all remaining hours of accrued sick leave at 50%
 - b. For those employees who shall receive termination benefits based on a maximum of 720 hours accrued sick leave, the following scheduled shall apply:

Maximum 720 hours of accrued sick leave at 75%

2. Persons with an initial hire date on or after July 1, 2003, shall not be paid nor receive more than 480 hours accrued sick leave for termination pay purposes or extended health insurance premium payments and the following schedule shall apply:

Maximum 480 hours of accrued sick leave at 75%

3. Persons with an initial hire date on or after January 1, 2023 shall not be paid nor receive payment for any accrued sick leave for termination pay purposes.

506.3 GENERAL PROVISION

- A. For any employee who voluntarily retires from City service as provided by state law, in lieu of receiving termination pay as provided by Series 506.2.D of these Rules, may use their balance of accrued sick leave as follows:
 1. Employees hired BEFORE July 1, 2001 - May purchase an extension of health care coverage in accordance with WV PEIA in an amount up to the relevant cap provided by said Series 506.2.D; or
 2. As a combination of termination pay and an extension of health care coverage which combination in the aggregate cannot exceed the amount of the relevant cap provided by said Series 506.2.D of these Rules, OR service credits to increase the employee's retirement benefit in accordance with applicable state law in effect at that time of retirement.
 3. Employees who have elected to participate in the plan ON OR AFTER JULY 1, 2001, or those that had a lapse in coverage after this date, you are not eligible for extended employer-paid insurance upon retirement.
 4. Employees enrolled in WV PERS system before July 1, 2015 - Accrued sick leave in excess of the relevant cap established by Series 506.2.D of these Rules may be used only as service credits to increase the employee's retirement benefit in accordance with applicable state law in effect at the time of retirement.
 5. For employees who first became members of the retirement system ON OR AFTER JULY 1, 2015, accrued annual or sick days may not be applied to acquire additional credited service.

SERIES 500 - BENEFITS AND PAID LEAVE

507 - TRAVEL

507.1 TRAVEL EXPENSES

A. When the performance of a City employee's duties require travel and other related expenses, the employee will be reimbursed for all pre-approved, necessary, and reasonable expenses in connection with such travel, in accordance with the policies promulgated by the City Manager. If the employee desires a cash advance, they must request same in accordance with policies promulgated by the City Manager. The employee will be required to complete an Expense Report Form to provide a complete accounting for all expenses incurred during the trip, which must be submitted to the Finance Director or Secretary/Treasurer of Utilities by the end of the month in which the travel took place. Please be mindful during your trip that all businesses frequented will be published in the newspaper as a vendor at year-end.

B. Necessary and Reasonable Expenses - These shall be interpreted to mean costs connected with official travel as follows:

1. **TRANSPORTATION**

Subject to the pre-approval policy established above, transportation and/or vehicle rental expenses shall be reimbursed according to actual expenditures. A tax-exempt certificate must be used when applicable.

2. **LODGING**

Subject to the pre-approval policy established above, lodging shall be reimbursed according to actual expenditures. A tax-exempt certificate must be used when applicable.

3. **MEALS**

Subject to the pre-approval policy established above, in the sole discretion of the City Manager, reasonable expenses for meals, per the U.S. General Services Administration (GSA) guidelines, shall be reimbursed according to actual expenditures upon the presentation of itemized receipts. There shall be no reimbursement for alcoholic beverages.

SERIES 500 - BENEFITS AND PAID LEAVE

508 - SICK AND ACCIDENT BENEFITS

Sick and Accident benefits will be provided for all non-represented employees in the City's service, excluding part-time, temporary, and seasonal employees. The benefit shall be One Hundred and Fifty 00/100 (\$150.00) per week for a maximum period of twelve (12) weeks in any one consecutive twelve (12) month period. Benefits will be paid to an employee who is on approved Family Medical Leave (FMLA) and who has exhausted all other accrued sick, vacation and personal leave.

SERIES 500 - BENEFITS AND PAID LEAVE

509 - GROUP INSURANCE / ELECTION / HEALTH CARE ALTERNATIVE

509.1 GROUP INSURANCE

All employees in the City's service, excluding part-time, temporary, and seasonal employees, shall be enrolled in a group health care insurance program to be selected from time to time by the City of Fairmont in its sole discretion. For persons whose date of hire predates July 1, 2003, after the first 36 months of employment, the City of Fairmont shall be responsible for 100% of the premium for said group health care insurance program. For persons whose date of hire is subsequent to July 1, 2003, the City of Fairmont shall be responsible for only 80% of the premium for said group health care insurance program and the employee shall be responsible for the remaining 20% for the entire term of employment.

- A. Notwithstanding the provisions of Series 509.1 to the contrary, any penalty, surcharge, or excess premium determined to be due to the group health care insurance provider as a result of an employee's or their dependent's use of tobacco or any tobacco related product shall be born exclusively by the employee.

509.2 HEALTH CARE ALTERNATIVE

Notwithstanding any other provision of these rules to the contrary, any employee may elect to be excluded from the City sponsored group health care insurance program provided by the City of Fairmont if said employee is enrolled in and is covered under an alternative substantially similar group health care insurance program.

- A. If any employee elects to be excluded from the City sponsored group health care insurance program, they shall be eligible for receipt of an alternative benefit which shall from time to time be established by ordinance.
- B. If any employee elects to be excluded from the City sponsored group health care insurance program, prior to receiving the alternative benefit provided by Subpart A of this Rule, such employee shall for any year the employee so elects, produce documentation, satisfactory to the City Manager or their designee, which establishes that said employee is enrolled in and is covered under an alternative substantially similar group health care insurance program.

509.3 HEALTH CARE UPON RETIREMENT

Full-time employees who were enrolled in PEIA insurance after July 1, 2010 will not be eligible for subsidized health insurance for the employee or their family upon retirement except for:

- A. Active employees who were originally enrolled in PEIA insurance before July 1, 2010, and who have a break in service not greater than two years after July 1, 2010. In this case, the original hire date will apply.

- B. Retired employees who retired before July 1, 2010, come back to active service after July 1, 2010, and then go back into retirement. In this case, the original hire date will apply.

SERIES 500 - BENEFITS AND PAID LEAVE

510 – UNPAID TIME OFF (NON-FMLA)

510.1 EXCUSED LEAVE WITHOUT PAY

- D. Full-time, non-represented employees shall have an allowance of up to forty (40) hours of Excused Leave Without Pay (ELWOP) each calendar year; provided, however, that during the calendar year of initial employment, ELWOP allowance shall be distributed as follows:
 - 3. If hired on or before June 30, an employee shall have an allowance of up to forty (40) hours of ELWOP.
 - 4. If hired on or after July 1, said employee shall have an allowance of up to twenty (20) hours of ELWOP.
- E. Subject to pre-request and supervisor approval, ELWOP may be taken in increments of two (2) hours or greater.
- F. ELWOP must be used in the calendar year. Unused ELWOP cannot be carried over from one year to the next.

SERIES 500 - BENEFITS AND PAID LEAVE

511 – ABSENCE WITHOUT LEAVE

511.1 ABSENCE WITHOUT LEAVE

All unauthorized and/or unreported absences shall be considered absence without leave and deduction of pay shall be made for the period of absence. Such absence may be grounds for disciplinary action. One (1) day of absence without leave shall be construed and accepted as resignation of City's service.

SERIES 600 – STANDARDS OF CONDUCT

601 - PLACEHOLDER FOR FUTURE POLICY

SERIES 600 – STANDARDS OF CONDUCT

602 - CHILDREN IN THE WORKPLACE

- A. This policy is established to avoid disruptions in job duties of the employee and co-workers, reduce property liability, and help maintain the City's professional work environment. The presence of children in the workplace with the employee parent during the employee's workday is inappropriate and is prohibited.
- B. The exceptions to this policy are:
 - 1. Those approved to participate in Take Your Child to Work Day.
 - 2. Special occasions and City-sponsored events declared by the City Manager as appropriate to allow children of employees to attend.
- C. During these approved events, children must be supervised by their employee parent at all times. At no time are children allowed to be in high-risk safety areas (indoors or outdoors) such as near chemicals, machinery, moving equipment, areas with excessive noise, temperatures, or inadequate ventilation, or anywhere else considered to be high-risk. Children shall not have access to computers or the internet.

SERIES 600 – STANDARDS OF CONDUCT

603 - WORKPLACE HARASSMENT

603.1 – PURPOSE

It is the policy of the City of Fairmont to provide all employees and volunteers with a workplace that is safe, comfortable and free of harassment. It is our policy to prohibit all forms of harassment at work, including harassment based on race, color, sex, pregnancy, sexual orientation, gender identity, genetic information (including family medical history), age (40 or older), disability, religion or national origin, or any protected classification. All employees are responsible for complying with the policy against Workplace Harassment.

603.2 - POLICY

- A. Any employee who engages in harassment on the basis of race, sex, gender, religion, color, age, disability, national origin or sexual orientation; who permits employees under their supervision to engage in such harassment; or who retaliates or permits retaliation against an employee who reports such harassment is guilty of misconduct and shall be subject to remedial action which may include the imposition of discipline or termination of employment.
- B. Sexual harassment is prohibited and includes any unwelcome sexual advance, requests for sexual favor and other verbal or physical conduct of a sexual nature when:
 - 1. submission to such conduct is made, either explicitly or implicitly, as a term or condition of employment;
 - 2. submission to or rejection of such conduct is used as a factor in any employment decision affecting any individual; or
 - 3. such conduct has the purpose or effect of unreasonably interfering with any employee's work performance or creating an intimidating, hostile or offensive working environment.
- C. Harassment, on the basis of protected classification other than sexual harassment, includes slurs and other verbal or physical conduct relating to an individual's based on race, color, sex, pregnancy, sexual orientation, gender identity, genetic information (including family medical history), age (40 or older), disability, religion or national origin, or any protected classification. Harassment is defined as behavior which has the purpose or effect of creating an intimidating, hostile, or offensive working environment, or has the purpose or effect of unreasonably interfering with an individual's work performance, or otherwise adversely affects an individual's employment opportunities.
- D. This policy prohibits sexual advances, requests for sex (with or without related threats and promises of favors or other benefits), or other verbal or physical sexual conduct which could have a harmful effect on any employee's work performance or create a hostile or offensive work environment.

Examples of "sexual harassment" include:

1. obscene or sexually suggestive comments about a person's body;
 2. "off color" language or "dirty" jokes of a sexual nature;
 3. slurs, threats, repeated commands or other offensive verbal or physical conduct relating to a person's sex or sexual orientation;
 4. offensive or unwelcome sexual flirtations, advances or propositions, communicated verbally, by touch, or in writing;
 5. use of sexually degrading words to describe a person or a group of people;
 6. any display of sexually explicit photographs, drawings, greeting cards, articles, books, magazines, or other printed items; or
 7. repeated unwelcome or unnecessary touching of any part of another's body.
- E. Sexual and other forms of harassment at work are strictly prohibited, whether committed by employees (management or non-management), vendors, citizens, or volunteers. Under this policy, managers or supervisors cannot threaten or imply that giving into or rejecting sexual advances will influence any decision regarding employment.
- F. Sexual and other forms of harassment by an employee will result in disciplinary action up to and including dismissal, and may lead to personal legal and financial liability. All employees are encouraged to report a complaint if they believe they may have been subjected to any form of harassment at work or during a work-related activity.
- G. Complaints of sexual and other forms of harassment at work will be promptly and carefully investigated. Under this policy, a manager or supervisor cannot retaliate or try to harm an employee in any way if they choose to file a harassment complaint.
- H. If an employee has concerns about harassment at work by anyone, including managers, supervisors, co-employees, guests, citizens, volunteers or visitors, they should immediately bring those concerns to their manager's attention or they may contact ANY manager or supervisor with whom said employee feels comfortable discussing the situation. If possible, said employee should bring their concerns to the attention of their Department Head. However, if unwelcome behavior involves the individual to whom said employee directly or indirectly reports, said employee should report the conduct to the Personnel Officer or City Manager.
- I. The investigation may include interviews with all persons having direct knowledge of the unwelcome behavior, including the person who made the complaint, the person accused of sexual or other harassment, and other potential witnesses.
- J. The employee's privacy and the privacy of the person accused of sexual or other harassment will, to the extent possible, be kept strictly confidential.
- K. At the conclusion of the investigation, the investigator will review the findings with the person(s) who made the complaint. If the investigation reveals that the complaint is factual, appropriate corrective action will be taken to prevent the harassment from occurring again, up to and including discharge of any employees believed to be guilty of sexual or other harassment. In any case, particularly in situations where the facts uncovered during the investigation are inconclusive or unclear, management will ensure that all parties are reacquainted with the policy prohibiting sexual or other harassment at work.

SERIES 600 – STANDARDS OF CONDUCT

604 - CONDUCT OF EMPLOYEE

604.1 ATTENDANCE

An employee shall be in attendance at regular work in accordance with these rules and general departmental regulations. Employees are expected to report to work on time for their shift. Each Department Head shall keep such records as may be required by the Finance Director or the City Manager.

604.2 PECUNIARY INTERESTS

No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City or be financially interested directly or indirectly in the sale to the City of land, materials, supplies, or services, except on behalf of the City as an officer or employee, provided, however, that an exemption may be granted in writing upon written request of the City Manager and City Clerk. See also "Code of Ethics".

604.3 POLITICAL ACTIVITY – PROHIBITED CONDUCT

- A. Any employee, while in the service of the City of Fairmont:
1. Will not be required to contribute to any political fund;
 2. Will not be a candidate for a City of Fairmont municipal elective office;
 3. Will not participate in a campaign for a City of Fairmont municipal elective office other than by voting.
- B. No City official or City employee shall, directly or indirectly, engage in the following conduct on any City owned or controlled real property, or in any City-owned vehicle or while wearing a City uniform or any clothing with City insignia:
1. Wear or display or caused to be displayed any political buttons, stickers, clothing, wearing apparel, accoutrement or accessory of any kind or nature; provided however, that political signs, magnets and/or stickers attached to or displayed on personal privately owned vehicles lawfully parked in City owned or controlled vehicular parking lots shall not be prohibited.
 2. Engage in any political activity or campaigning on behalf of one's-self as a candidate or the candidacy of another;
 3. Solicit or seek any assessment or contribution for any political candidate or committee;
 4. Use any official authority or influence for the purpose of interfering with or affecting the nomination, election or defeat of a political candidate or committee; or

5. Coerce or command anyone to pay, lend or contribute anything of value to a political candidate or committee.
- C. Violation of any portion of this rule may be cause for disciplinary action.

SERIES 600 – STANDARDS OF CONDUCT

605 – MOTOR VEHICLE RECORDS

605.1 MOTOR VEHICLE RECORD (MVR) POLICIES AND PROCEDURES

- A. Any employee whose work requires the operation of an Employer-assigned vehicle, or the operation of their own vehicle for Employer business, must hold a valid State of West Virginia Driver's License. Such employees shall be required to submit to a driving record check by the State of West Virginia Department of Motor Vehicles as a condition of employment. Periodic checks of employees' driver's licenses will also be made.

- B. Employees who drive their own vehicle for City of Fairmont business must provide the Personnel Officer with a copy of their current Certificate of Insurance annually. Drivers are required to notify their immediate supervisor in those cases where a license is expired, suspended, or revoked for any reason. Failure to report such an instance subjects the employee to disciplinary action, up to and including termination. Any employee who does not hold a valid State of West Virginia Driver's License shall not be allowed to operate an Employer-assigned vehicle until such time as a valid license is obtained.

SERIES 600 – STANDARDS OF CONDUCT

606 - SAFETY

606.1 SAFETY PROGRAM

- A. **Policy** – Any guidelines or policies which are developed or established by the City Manager, or their designee, from time to time and which are intended to promote employee safety and health, be and are hereby incorporated herein and made a part hereof by reference. A copy of said guidelines or policies shall be made available upon request.

- B. The City Manager, or their designee, shall promulgate rules and regulations for purposes of implementing and administering such program. It is the responsibility of each employee to follow safety regulations. Failure to do so may result in dismissal.

SERIES 600 – STANDARDS OF CONDUCT

607 – CONFIDENTIALITY

607.1 PURPOSE

To set forth guidelines to ensure that employees are not involved in divulging City of Fairmont confidential information.

607.2 APPLICABILITY

This Policy applies to all full-time and hourly/part-time City employees.

607.3 POLICY AND DEFINITIONS

- A. During performance of their authorized, assigned and lawful duties for which hired, employees may have access to confidential, sensitive and/or private information (hereafter “confidential information”).
- B. For purposes of this Policy, “confidential information” means any fact, matter, document, or file in any form (whether delivered verbally, in a writing, by electronic delivery or otherwise), disclosed or known as a consequence of employment and not generally known or available to the general public. Confidential information may also include, but is not limited to, personnel matters, financial records, tax records, legal matters, and/or any other matter involving the business of the City that is not generally known and does not constitute public information.
- C. Employees are required to understand that they may hear conversations, see written documents, or observe things that are not intended for public dissemination. This Policy shall not be construed to prevent employees from discussing any public matter or the general nature of their authorized, assigned and lawful work as an employee of the City.
- D. However, employees will not disclose or otherwise reveal any confidential information without authorization. Therefore generally:
 - 1. Employees shall not use any confidential information, or any information derived from confidential information, for personal purposes or gain, or otherwise use such information outside of the course of employment with the City.
 - 2. During their employment with the City and after separating employment for any reason, employees will not disclose to, discuss or share with any unauthorized person, group or department, inside or outside of the City, any confidential information, in any form, except to the extent such disclosure, discussion or sharing is authorized by law or by an immediate supervisor or Department Head. The obligations of confidentiality set forth herein shall survive separation from employment with the City for an indefinite period.

3. Employees will not copy or remove from the City any materials containing confidential information, except to the extent that they are given direction to do so by their immediate supervisor or Department Head.
 4. Employees will not look at, examine, or retrieve any document, file, or database developed or maintained by the City, except those to which they are authorized to access and which are necessary to access in order to perform authorized and assigned job duties.
 5. Employees will not discuss or share with any unauthorized person, group or department, inside or outside of the City, any conclusions that are drawn from confidential information if discussing or sharing those conclusions would reveal any confidential information.
 6. If an employee is ever uncertain whether a particular fact, matter, document, or file constitutes confidential information or is subject to this Policy, they will resolve all uncertainties in favor of preserving the confidentiality of that information, and will seek clarification from their immediate supervisor or Department Head before engaging in any conduct that could jeopardize the confidentiality of the information. If the Department Head or supervisor has questions regarding confidential information, they should contact the City Manager or the City Attorney.
 7. Employees will immediately notify their direct supervisor or Department Head if they become aware of any breach of confidentiality, either intentional or accidental, regardless of whether they are personally involved.
 8. Upon an employee's separation from employment with the City or as may be requested by their immediate supervisor or Department Head, an employee will promptly return all material containing confidential information to their immediate supervisor or Department Head and will not retain any copies thereof.
- E. Any violation of the terms or conditions of this Policy may subject an employee to disciplinary action, up to and including termination.

SERIES 600 – STANDARDS OF CONDUCT

608 – SOCIAL MEDIA

608.1 PURPOSE

To support the City's goals and objectives, City of Fairmont departments, boards, commissions, and City affiliated neighborhood groups may utilize social media and social network sites to further enhance communications with various stakeholder organizations. City officials and City organizations have the ability to publish articles, facilitate discussions and communicate information through various media related to conducting City business. Social media facilitates further discussion of City issues, operations and services by providing members of the public the opportunity to participate in more ways.

608.2 POLICY

- A. All City of Fairmont social media sites shall be (1) approved by the City Manager and the requesting Department Head; (2) reviewed by the City's Communications Manager, the Information Technology Technician, and/or other persons required by the City Manager; (3) published using approved City social networking platform and tools; and (4) administered and monitored by the Information Technology Technician, Communications Manager and or a department designee. Designees can be any department employee designated by the requesting Department Head that has a complete understanding of this policy and has appropriate technical experience. The designees shall serve as the blog moderator for the department.
- B. All City of Fairmont social networking sites shall adhere to applicable state, federal and local laws, regulations and policies including all Information Technology and Records Management City policies and other applicable City policies.
- C. Freedom of Information Act laws and policies apply to social media content and therefore, content must be able to be managed, stored and retrieved to comply with these laws.
- D. City of Fairmont social networking sites are subject to applicable West Virginia public records laws. Relevant City of Fairmont records retention schedules apply to social networking content. Records required to be maintained pursuant to a relevant records retention schedule shall be maintained for the required retention period in a format that preserves the integrity of the original record and is easily accessible using the approved City platforms and tools.
- E. All social network sites and entries shall clearly indicate that any articles and any other content posted or submitted for posting are subject to public disclosure.
- F. Content submitted for posting, that is deemed not suitable for posting by a City of Fairmont social networking moderator because it violates the "User Guidelines" Series 608.7 shall be subject to removal by the City.

- G. The City reserves the right to restrict or remove any content that is deemed in violation of this policy or any applicable law.
- H. Each City of Fairmont social networking site shall include an introductory statement which clearly specifies the purpose and topical scope of the blog and social network site. Where possible, social networking sites should link back to the official City of Fairmont Internet site for forms, documents and other information.
- I. City of Fairmont social networking content and comments containing any of the following forms of content shall not be allowed/posted and are subject to removal by the City. Repeated violations of posting inappropriate comments, as defined above, will subject the author to removal from the City's Social networking site.
 - 1. Comments not topically related to the particular site or blog article being commented upon;
 - 2. Personal attacks of any kind;
 - 3. Profane language or vulgar content;
 - 4. Prejudicial remarks or a comment that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;
 - 5. Sexual content or links to sexual content;
 - 6. Solicitations of commerce; promoting any goods/services or links to other sites;
 - 7. Advocating, conducting, supporting or encouraging illegal activity of any kind;
 - 8. Information that may tend to compromise the safety or security of the public or public systems;
 - 9. Content that violates a legal ownership interest of any other party or infringe on copyrights or trademarks;
 - 10. Supports particular services, products or political organizations/ideas;
 - 11. Promotes events or activities that are not sponsored by the City;
 - 12. Contains personal information such as address, birth date, medical information or social security number;
 - 13. Contains political endorsements of any particular candidate for office, electioneering or a particular stance on specific legislation;
 - 14. Contains any items violating the West Virginia Public Information Act.
- J. All City social networking moderators shall be trained regarding the terms of this City of Fairmont policy, including their responsibilities to review content submitted for posting to ensure compliance with the policy.
- K. All social networking sites shall clearly indicate they are maintained by the City of Fairmont and shall have City of Fairmont contact information prominently displayed.
- L. Where appropriate, City Cyber Security policies shall apply to all social networking sites and articles.

- M. Employees representing the City government via social media outlets must conduct themselves at all times as a representative of the City and in accordance with all Personnel Rules and Regulations.
- N. Employees found in violation of the City of Fairmont's Social Media policy may be subject to disciplinary action, up to and including termination of employment.
- O. The City of Fairmont's website at <https://www.fairmontwv.gov> will remain the City's primary and predominant internet presence.

608.3 DEFINITIONS

For the purpose of this City of Fairmont Social Media Policy, the following terms are defined as provided below:

A. Social Media

Social media is content created by individuals using accessible and scalable technologies through the Internet. Examples of social media include Facebook, blogs, RSS, YouTube, Twitter, LinkedIn, Flickr, etc.

B. Blog

Blog (an abridgment of the term web log) is a City of Fairmont website with regular entries of commentary, descriptions of events, or other material such as graphics or video.

C. City of Fairmont Author

An authorized City of Fairmont official that creates and is responsible for posted articles and information on social media sites ("article").

D. Article

An original posting of content to a City of Fairmont social media site by a City of Fairmont author.

E. Commenter

A City of Fairmont official or member of the public who submits a comment for posting in response to the content of a particular City of Fairmont article or social media content.

F. Comment

A response to a City of Fairmont article or social media content submitted by a commenter.

G. City of Fairmont Moderator

An authorized City of Fairmont official, who reviews, authorizes and allows content submitted by City of Fairmont authors and public commenters to be posted on City of Fairmont social media sites.

608.4 BLOG STANDARDS

Comments submitted by members of the public must be directly related to the content of the articles. Submission of comments by members of the public constitutes participation in a limited public forum. City of Fairmont blog moderators shall allow comments that are topically related to the particular article upon which comments are being made and thus within the purpose of the limited public forum, with the exception of the prohibited content listed in the User Guidelines in Series 608.7.

A. Ownership and Moderation

1. The content of each City of Fairmont blog shall be owned by and the sole responsibility of the department producing and using the blog.
2. Documents and articles submitted to a City of Fairmont blog shall be moderated by an authorized and trained blog moderator.

B. Blog Comments & Responses

1. All blog articles and comments shall be reviewed and approved by an authorized blog moderator before posting on a City of Fairmont blog.
2. All blog articles and comments submitted for posting with attached content shall be scanned using antivirus technology prior to posting.
3. The linked content of embedded hyperlinks with any City of Fairmont blog articles or blog comments submitted for posting shall be evaluated prior to posting.
4. Any posted hyperlinks may be accompanied by a disclaimer stating that the City of Fairmont guarantees neither the authenticity, accuracy, appropriateness, nor security of the link, web site or content linked thereto.

608.5 EMPLOYEE GUIDANCE FOR PARTICIPATING IN SOCIAL NETWORKING

A. The City of Fairmont understands that social networking and Internet services have become a common form of communication in the workplace and among stakeholders and citizens. Social networks are online communities of people or organizations that share interests and/or activities and use a wide variety of Internet technology to make the interaction a rich and robust experience.

B. Employees who choose to participate in social networks as a City employee shall adhere to the following guidelines:

1. City policies, rules, regulations and standards of conduct apply to employees that engage in social networking activities while conducting City business. Use of your City e-mail address and communicating in your official capacity will constitute conducting City business.
2. City employees shall notify their supervisor if they wish to create a social networking site or service to conduct City business and follow the required approvals under 608.2.A.

3. Departments have the option of allowing employees to participate in existing social networking sites as part of their job duties. Department Heads may allow or disallow employee participation in any social networking activities in their departments.
4. Protect your privacy, the privacy of citizens, and the information the City holds. Employees must follow all privacy protection laws, i.e., HIPPA, and protect sensitive and confidential City information.
5. Follow all copyright laws, public record laws, retention laws, fair use and financial disclosure laws and any other laws that might apply to the City or your functional area.
6. Do not cite vendors, suppliers, clients, citizens, co-workers or other stakeholders without their approval.
7. Do not use ethnic slurs, profanity, personal insults, or engage in any conduct that would not be acceptable in the City's workplace. Avoid comments or topics that may be considered objectionable or inflammatory.
8. If you identify yourself as a City employee, ensure your profile and related content is consistent with how you wish to present yourself to colleagues, citizens and other stakeholders.
9. Correct your mistakes, and do not alter previous posts without indicating that you have done so. Frame any comments or opposing views in a positive manner.
10. Add value to the City of Fairmont through your interaction. Provide worthwhile information and perspective.

608.6 EMPLOYEE GUIDANCE FOR PARTICIPATING IN SOCIAL NETWORKING – PERSONAL USE

Employees that choose to participate in social networks personally shall adhere to the following guidelines:

- A. City personnel are free to express themselves as private citizens on social media sites to the degree that their speech does not impair working relationships of the City for which loyalty and confidentiality are important, impede the performance of duties, impair discipline and harmony among coworkers, or negatively affect the public perception of the City.
- B. As public employees, City personnel are cautioned that speech on or off duty, made pursuant to their official duties, that is, that owe its existence to the employee's professional duties and responsibilities, is not protected speech under the First Amendment. Therefore, this speech may form the basis for discipline up to and including termination if deemed detrimental to the City.
- C. City personnel shall not post, transmit, or otherwise disseminate any confidential and or proprietary information to which they have access as a result of their employment without written permission from the City Manager or their designee.

- D. Adherence to the City's code of conduct is required in the personal use of social media. In particular City personnel are prohibited from the following:
1. Posting statements that are made with the knowledge that they were false or with reckless disregard of whether they were false.
 2. Posting statements that impair working relationships of the City for which loyalty and confidentiality are important.
 3. Posting statements that impede the performance of duties, impair discipline and harmony among coworkers, or negatively affect the public perception of the City.
- E. City personnel may not make any statements, speeches, appearances, and endorsements; or publish materials that could reasonably be considered to represent the views or positions of the City without express authorization from the City Manager or their designee.

608.7 USER GUIDELINES FOR ALL SOCIAL MEDIA PAGES

Note: The information on this page shall be on each City of Fairmont Social Media page, as allowable.

Welcome to this City of Fairmont Social Media page. We welcome your participation, but ask that you abide by the following guidelines:

Comments containing any of the following forms of content shall not be allowed/posted and are subject to removal by the City:

- a. Comments not topically related to the particular site or blog article being commented upon;
- b. Personal attacks of any kind;
- c. Profane language or vulgar content;
- d. Prejudicial remarks or a comment that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;
- e. Sexual content or links to sexual content;
- f. Solicitations of commerce, promoting any goods/services or links to other sites;
- g. Advocating, conducting, supporting or encouraging illegal activity of any kind;
- h. Information that may tend to compromise the safety or security of the public or public systems; or
- i. Content that violates a legal ownership interest of any other party or infringe on copyrights or trademarks;
- j. Supports particular services, products or political organizations/ideas;
- k. Promotes events or activities that are not sponsored by the City;
- l. Contains personal information such as address, birth date, medical information or social security number;
- m. Contains political endorsements of any particular candidate for office, electioneering, or a particular stance on specific legislation;
- n. Contains any items violating the West Virginia Public Information Act.

Repeated violations of posting inappropriate comments, as defined above, will subject the author to removal from the City's Social Media site.

There is no right of privacy on the City's Social Media page. All content is considered a public record, and will be retained as required by law.

This is a moderated online discussion group and not a public forum. If you would like to comment on City policies, programs, projects, etc., please visit the City website and select the appropriate contact forum. Attending public hearings or meetings is also suggested.

The comments expressed on social media sites by a member of the public do not reflect the opinions and position of the City of Fairmont or its officers and employees and publication of a comment does not imply endorsement of, or agreement by the City of Fairmont.

SERIES 600 – STANDARDS OF CONDUCT

609 – FIREARMS

No City employee other than a sworn Police Officer shall carry a firearm with them during working hours or transport and/or store a firearm in any City-owned vehicle or facility. Failure to abide by this policy will result in disciplinary action.

SERIES 600 – STANDARDS OF CONDUCT

610 - OUTSIDE EMPLOYMENT

610.1 PURPOSE

To set forth guidelines to ensure that employees are not involved in any outside employment or activity that will affect the quality or quantity of work performed at the City of Fairmont, create a conflict of interest, impropriety or an appearance of impropriety, or improper use of City property.

610.2 APPLICABILITY

This Policy applies to all full-time and hourly/part-time City employees.

610.3 POLICY

- A. A City employee shall not engage in any employment, enterprise, or outside activity which is in conflict with the duties, functions, responsibilities, or the department in which the employee serves, nor shall the employee engage in any compensatory outside activity which will directly, or indirectly, contribute to the lessening of the employee's effectiveness in performing their duties.
- B. The employee's position with the City is of priority consideration in making a determination as to the consistency or inconsistency of outside activities. The Department Head and/or City Manager, in determining any violation, shall consider among other pertinent factors whether the activity involves:
 - 1. The use for private gain or advantage of City time or facilities, equipment and supplies, or the badge, uniform prestige or influence of the City office or employment.
 - 2. Receipt or acceptance of money or other form of compensation by an employee to perform duties normally performed or expected to perform as a regular function of the employee's position and for which the employee is already being compensated by the City.
 - 3. Performance of an act in other than the employee's capacity as a City worker, which act may later be subject directly or indirectly to control, inspection, review, audit or enforcement by such employee or department by which the employee serves.
 - 4. Conditions or factors which would probably, directly or indirectly, lessen the efficiency of the employee in the employee's regular City employment or condition in which there is substantial danger of injury or illness to the employee.
 - 5. Solicitation of outside work in the name of the City of Fairmont.
 - 6. Inconsistent, incompatible or in conflict with the duties, functions, or

responsibilities of the City position.

If an employee is found to be in violation of this policy, they will be subject to discipline in accordance with these Rules.

610.4 PROCEDURE

- A. A "Notification of Outside Employment" form must be completed and submitted to the Department Head for any employee engaging in outside employment, which includes self-employment and internet businesses.
- B. Outside employment will not be considered an excuse for poor job performance, absenteeism, tardiness, leaving early, refusal to travel or refusal to work overtime or different hours
- C. Employees who have accepted outside employment may not use paid sick leave to work on the outside job. This is considered fraudulent use of sick leave.
- D. If an employee wishes for a prior assessment of whether outside employment may present a conflict, they may request an advisory opinion from the West Virginia Ethics Commission.

SERIES 600 – STANDARDS OF CONDUCT

611 - RELATIONSHIPS IN THE WORKPLACE

611.1 OBJECTIVE

- A. The City of Fairmont strongly believes that a work environment where employees maintain clear boundaries between employee personal and business interactions is necessary for effective business operations. Although this policy does not prevent the development of friendships or romantic relationships between co-workers, it does establish boundaries as to how relationships are conducted during working hours and within the working environment.
- B. Individuals in supervisory or managerial roles, and those with authority over others' terms and conditions of employment, may be subject to more stringent requirements under this policy or the City's Nepotism Policy due to their status as role models, their access to sensitive information, and their ability to affect the employment of individuals in subordinate positions.
- C. This policy does not preclude or interfere with the rights of employees protected by any applicable statute concerning the employment relationship.

611.2 POLICY

- A. During working time and in working areas, employees are expected to conduct themselves in an appropriate workplace manner that does not interfere with others or with overall productivity.
- B. During nonworking time, such as lunches, breaks, and before and after work periods, employees engaging in personal exchanges in nonwork areas should observe an appropriate workplace manner to avoid offending other workers or putting others in an uncomfortable position.
- C. Employees are strictly prohibited from engaging in physical contact that would in any way be deemed inappropriate in the workplace by a reasonable person while anywhere on company premises, whether during working hours or not, or anywhere offsite during working hours or while performing official duties.
- D. Employees who allow personal relationships with co-workers to adversely affect the work environment will be subject to the City of Fairmont's disciplinary policy. Failure to change behavior and maintain expected work responsibilities is viewed as a serious disciplinary matter.
- E. Employee off-duty conduct is generally regarded as private, as long as such conduct does not create problems within the workplace. An exception to this principle, however, is romantic or sexual relationships between supervisors and subordinates.

- F. Any supervisor, manager, executive or other City official in a sensitive or influential position with the City of Fairmont must disclose the existence of a romantic or sexual relationship with another co-worker. Disclosure may be made to the individual's immediate supervisor or the Human Resources Manager. The Personnel Officer will review the circumstances to determine whether any conflict of interest exists.
- G. When a conflict-of-interest or potential risk is identified due to a supervisor, manager, executive or other City official's relationship with a co-worker, the City Manager will work with the parties involved to consider options for resolving the problem. The initial solution may be to make sure the parties no longer work together on matters where one is able to influence the other or take action for the other. Matters such as hiring, firing, promotions, performance management, compensation decisions and financial transactions are examples of situations that may require reallocation of duties to avoid any actual or perceived reward or disadvantage. In some cases, other measures may be necessary, such as transfer of one or both parties to other positions or departments. If one or both parties refuse to accept a reasonable solution, such refusal will be deemed a voluntary resignation.
- H. Failure to cooperate with the City of Fairmont to resolve a conflict or problem caused by a romantic or sexual relationship between co-workers or among managers, supervisors or others in positions of authority in a mutually agreeable fashion may be deemed insubordination and result in disciplinary action up to and including termination.
- I. The provisions of this policy apply regardless of the sexual orientation of the parties involved.
- J. Where doubts exist as to the specific meaning of the terms used above, employees should make judgments based on the overall spirit and intent of this policy.
- K. Any concerns about the administration of this policy should be addressed to the City Manager.

SERIES 600 – STANDARDS OF CONDUCT

612 - SMOKING/VAPING/TOBACCO USE

612.1 PURPOSE

The United States Surgeon General has determined that involuntary inhalation of tobacco and vape from e-cigarettes is (a) a cause of numerous diseases in healthy nonsmokers; and (b) is a major contributor to indoor air pollution; and (c) that children, elderly people, individuals with cardiovascular and/or respiratory diseases are at special risk. Additionally, the Marion County Health Department finds that the regulation of smoking and vaping is necessary and proper for the protection of the general health of its service area, namely, Marion County, West Virginia.

612.2 POLICY

- A. The City of Fairmont is committed to providing a safe and healthy workplace and to promoting the health and well-being of its employees. It is the responsibility of the City of Fairmont to provide a smoke-free, vape-free and tobacco free workplace for all employees; therefore:
1. Smoking, vaping, and tobacco product use shall be prohibited in all enclosed facilities and in any city vehicle/city equipment.
 2. Smoking and vaping shall only be permitted at designated areas and a minimum of fifteen (15) feet away from all city buildings and entrances/exits and shall not interfere with employees or visitors entering and exiting any facility.
 3. If smoking or using tobacco or similar products outside, do not leave cigarette butts or other traces of litter or tobacco use on the ground or anywhere other than a designated receptacle.
 4. No additional breaks beyond those already allowed may be taken for the purpose of using tobacco or similar products.

SERIES 600 – STANDARDS OF CONDUCT

613 – SUBSTANCE ABUSE

613.1 POLICY

- A. The City of Fairmont 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 of Fairmont is a drug-free workplace. The City of Fairmont will not tolerate substance abuse in the workplace and maintains a zero-tolerance policy in this regard. The City of Fairmont prohibits the unlawful use, manufacture, distribution or possession of a controlled substance in the workplace. Substance abuse occurs when an individual misuses alcohol or another legal substance, uses illegal drugs, or misuses prescription and over-the-counter drugs, inhalants, or other controlled substances. A controlled substance as defined by the provisions of Chapter 60A of West Virginia Code, the Uniform Controlled Substances Act, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of their professional practice, or except as otherwise authorized by the provisions of said Act.
- B. This Substance Abuse policy is in effect at all City facilities, on all City property, in all City-owned or leased vehicles, and while on duty or immediately available for duty, regardless of location. All City of Fairmont employees must abide by the terms of this policy as a condition of employment including drivers of commercial motor vehicles or those positions that require a Commercial Driver's License (CDL). 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 Drug Free Workplace of 1988 and Omnibus Transportation Employee Testing Act of 1991.
- C. It is a violation of this City policy for an employee, while in the workplace, to:
 - 1. Use, possess, sell, trade, offer for sale, buy or otherwise engage in distribution of any illegal drug, or inhalant.
 - 2. Consume alcoholic beverages on City property or in City vehicles.
 - 3. Report to work under the influence of alcohol, any mind-altering legal substance, or any illegal drug or inhalant. For purposes of this policy, the term "illegal drug" includes any prescription drug used in excess of prescribed quantities.
 - 4. Test positive for alcohol or any illegal drug or inhalant while on duty.
 - 5. 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 while on duty.
 - 6. 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.
- D. Employees violating this policy are subject to termination. Depending upon the employee's entire work history and disciplinary record, employees who test positive or otherwise violate this policy may be offered one opportunity for rehabilitation in lieu of termination.

- E. If convicted of a drug statute violation that occurred in the workplace, employees are to report it to the City of Fairmont in writing no later than five calendar days after such a conviction.
- F. If the City determines that it is appropriate to afford an employee rehabilitation in lieu of termination, the employee will be referred to a substance abuse professional for evaluation at the employee's expense, and will be suspended without pay. If the substance abuse professional recommends treatment, the employee will be responsible for the cost of treatment and return-to-work screening. In order to return to active employment with the City, the employee will be required to (a) successfully complete the required treatment regimen, (b) test negative on a return-to-work drug and alcohol test, and (c) be subject to unannounced follow-up testing for at least 12, but not more than 60 months. The frequency and duration of the follow-up testing will be recommended by the SAP (Substance Abuse Policy) as long as a minimum of six tests are performed during the first 12 months after the employee has returned to duty. Failure to meet any of these requirements will result in the employee's termination.
- G. A second positive drug or alcohol test or violation of the policy will result in the employee's termination.

613.2 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 suspected violation of this policy. Once there is a basis to believe that 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 they may have a problem to obtain help before it becomes a disciplinary issue.

613.3 DRUG/INHALANT/ALCOHOL TESTING TYPES

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

A. Pre-Employment

Following a contingent job offer as part of the employee's pre-employment screening process.

B. 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:

1. Direct observation of substance abuse at work. Some examples include:
 - a. Incoherent, slurred speech
 - b. Odor of alcohol on the breath
 - c. Staggering gait, disorientation, or loss of balance
 - d. Red and watery eyes, if not explained by environment causes
 - e. Paranoid or bizarre behavior
 - f. Unexplained drowsiness
2. Abnormal conduct or erratic behavior while at work, or a significant deterioration in work performance or other actions that indicate impairment.
3. 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.
4. 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.

C. Post-Accident

1. Testing may be required of any employee who may have caused or contributed to an accident or where there is a reasonable suspicion of substance abuse. As soon as practical following an accident involving a commercial motor vehicle or other City vehicle, the City shall conduct drug and alcohol testing when the situation meets any one of the following criteria:
 - a. The accident involved a fatality;
 - b. The employee received a citation under state or local law for a moving traffic violation arising from the accident;
 - c. One or more of the vehicles involved in the accident cannot be moved or has to be towed from the scene;
 - d. Someone receives medical treatment away from the scene of the accident;
 - e. Reasonable suspicion as defined above.
2. Nothing in this policy shall be construed to require the delay of necessary medical attention for the injured people following the accident, or to prohibit an employee from first seeking assistance in responding to the accident, or to obtain necessary medical treatment. An employee who is subject to post

accident testing must remain available for testing or the City will consider the employee to have refused to participate in the testing process, and disciplinary action, as described by this policy, will be taken. An employee subject to post accident testing cannot consume alcohol for (8) hours following the accident, or until they submit to an alcohol test, whichever comes first.

D. Fitness for Duty

Substance Abuse Testing or medical examination may be required as part of fitness for duty to return to work.

613.4 RANDOM SUBSTANCE ABUSE TESTING FOR CERTAIN COVERED EMPLOYEES

- A. Under this random testing section of the policy COVERED EMPLOYEES are those who:
1. Are required to possess a Commercial Driver's License (CDL) to operate a commercial motor vehicle as described above; or,
 2. Are subject, at any given time, to be dispatched to operate a commercial motor vehicle as described above; or,
 3. Any mechanic who services, maintains or is subject to service and maintain at any given time, a commercial motor vehicle as described above that requires a Commercial Driver's License (CDL) to operate.
- B. Random testing will be conducted of all City drivers of commercial motor vehicles and/or those positions that require a Commercial Driver's License (CDL) Commercial Driver: Employees who, as a condition of employment, are required to possess a Commercial Driver's License in order to operate a commercial motor vehicle. Employees who are drug and/or alcohol tested under these criteria are testing under the authority of the USDOT/Federal Motor Carrier Safety Administration (FMCSA) as set forth in the 49 CFR, Part 40 and Part 382.
- C. Names will be selected for random testing using computer technology and/or methodology established by the USDOT/FMCSA in CFR 49 part 40 and Part 382. The method of selection requires each employee in each pool have an equal chance at being selected for any given testing period. Testing in one period does not preclude the employee from being selected again in another testing period. Nothing in this policy is to imply that the City cannot test COVERED EMPLOYEES at a rate higher than the minimum rate established by the USDOT.
- D. Employees are to be removed from the COVERED EMPLOYEE testing pools when they are, for any reason, in a non-working status for thirty (30) or more consecutive days. Pre-employment testing requirements must be met before an employee who has been in non-working status for thirty (30) or more consecutive days can again perform their CDL job requirements.

613.5 PARTICIPATION IN THE VARIOUS KINDS OF SUBSTANCE ABUSE TESTING

- A. Participation by COVERED EMPLOYEES is a condition of employment. Refusal to participate in this testing program is considered as refusing to test and will result

in employee dismissal. COVERED EMPLOYEES must comply with all instructions and participate in all drug and alcohol testing, including Post Accident and Reasonable Suspicion Testing as a condition of employment. A supervisory presence, with the authority to remove the employee from duty, will be maintained at the collection site in the event an employee engages in prohibited behavior associated with these drug and alcohol testing results.

- B. Employees are to identify themselves through picture identification. In the event no picture identification is readily available, the collection site supervisor can verify the employee's identity. Employees who refuse to cooperate with the Breath Alcohol Technician (BAT)/urine sample collector/site supervisor will have their test results issued as positive, refusal to test.

613.6 DRUG TESTING PROCEDURES

- A. The collector will inform the employee of the procedures necessary to fulfill their obligation under the drug testing rules. The employee's privacy will be maintained. The actual testing will allow for individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen to be provided.
- B. The Department of Transportation mandates that all urine samples are sent to a certified testing laboratory ("Rapid" tests will not be conducted for employees tested under USDOT/FMCDISA CFR 49 Part 40 and Part 382). At the testing laboratory, the sample will be tested in accordance with the requirements of Title 49 Part 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs). Before any test is certified as positive by the Medical Review Officer (MRO) working for the certified laboratory, every reasonable attempt will be made to contact the employee to discuss whether or not a medical or other condition may have triggered the positive result.
- C. Any employee providing a certified positive urine sample is to be removed immediately from covered duty, possibly referred to a Substance Abuse Professional (SAP) and disciplined under the authority of this Policy.
- D. The employee must request the split (second) sample be analyzed at a different certified laboratory for the presence of drug(s) initially certified as positive. The employee will be allowed 72 hours from the time of the positive test certification to request the second analysis be conducted. All re-testing shall be completed at the employee's expense.

613.7 ALCOHOL TESTING PROCEDURES

- A. Breath alcohol testing must be collected through the use of an evidential breath testing device (EBT), or a non-evidential ASD (Alcohol Screening Device) such as Salvia ASL or Breath Tube ASD. A Breath Alcohol Technician (BAT) or Screening Test Technician (STT) will conduct testing as specified per requirements of Title 49 CFR Part 40.
- B. Alcohol testing is to be conducted in a location that affords visual and aural privacy to the individuals being tested, sufficient to prevent unauthorized persons from seeing or hearing test results.

- C. The BAT or STT will transmit all results to the Designated Employee Representative (DER) in a confidential and timely manner. If an individual must be removed from duty, the BAT or STT will notify the DER immediately.
- D. Generally positive testing will result in the employee being escorted home and removed from covered duty until further notified of next steps.

613.8 CONSEQUENCES OF PROHIBITED CONDUCT

- A. The MRO will certify positive drug test results to the DER. Alcohol test results are available on-site and supervisors are to proceed based upon the criteria established under this policy as stated above.
- B. The DER will inform the Department Head of the positive drug and/or alcohol test result.
- C. The employee is to be removed from covered duty immediately upon notification of positive drug or alcohol test results.

613.9 REFUSAL TO TEST

- A. All COVERED EMPLOYEES are required to participate in the testing program as a condition of employment. Refusal to test in any drug/alcohol testing will result in immediate dismissal.
- B. If an employee refuses to test, leaves a collection facility without submitting a specimen, or if a sample is diluted or altered in any way, it will be treated as a positive test. Refusal to test includes (but is not limited to):
 - 1. Failure to appear at test-site; or,
 - 2. Failure to remain until test is completed; or,
 - 3. Failure to provide a urine sample without a valid medical reason; or,
 - 4. Failure to permit monitored collection (should it be required); or,
 - 5. Failure to cooperate with any part of the testing process; or,
 - 6. Tampering with or attempting to adulterate a specimen or collection procedure; or,
 - 7. Leaving the scene of an accident as defined by 613.3.C of this policy without a valid reason before testing has been conducted.

613.10 OPPORTUNITY TO CONTEST OR EXPLAIN TEST RESULTS

Test results are evaluated by the Medical Review Officer working for the certified laboratory. 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 results,

the test shall be reported back to the City as positive. The employee will be entitled to a copy of the results if requested within five working days.

613.11 CONFIDENTIALITY

- A. 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 from the City's determinations that the employee engaged in prohibited conduct (including, but not limited to, worker's compensation, unemployment compensation or other proceedings relating to a benefit by the employee);
 - 3. Pursuant to a court order, search warrant, or other legally constituted request for such information.
- B. 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 Department Head, the City Manager and Human Resource Manager. Such information may be shared only by those persons having legitimate interest in these issues as they relate to management and direction of the work force.

SERIES 600 – STANDARDS OF CONDUCT

614 – WHISTLEBLOWER

614.1 GENERAL

The City of Fairmont expects employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As an employee of the City of Fairmont, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations. This policy is intended to encourage and enable employees to raise serious concerns within the organization.

This policy is meant to address specific regulations and procedures specific to the City of Fairmont. This policy supplements and will be used in concurrence with and by reference of WV Code § 6C-1 The WV Whistle-blower Law.

614.2 DEFINITIONS

"Good faith report" means a report of conduct defined in this article as wrongdoing or waste which is made without malice or consideration of personal benefit and which the person making the report has reasonable cause to believe is true.

"Waste" means an employer or employee's conduct or omissions which result in substantial abuse, misuse, destruction or loss of funds or resources belonging to or derived from federal, state or political subdivision sources.

"Whistleblower" means a person who witnesses or has evidence of wrongdoing or waste while employed with a public body and who makes a good faith report of, or testifies to, the wrongdoing or waste, verbally or in writing, to one of the employee's superiors, to an agent of the employer or to an appropriate authority.

"Wrongdoing" means a violation which is not of a merely technical or minimal nature of a federal or state statute or regulation, of a political subdivision ordinance or regulation or of a code of conduct or ethics designed to protect the interest of the public or the employer.

Examples of illegal or dishonest wrongdoing are violations of federal, state, or local laws; billing for services not performed or for goods not delivered; and/or a direct threat to public interest; such as fraud, health/safety violations, corruption, and fraudulent financial reporting.

614.3 REPORTING PROCESS

If an employee has specific knowledge of an alleged wrongdoing, or a concern of an unethical or dishonest activity, the employee shall submit their knowledge and complaint verbally and then in writing to the Department Head if the wrongdoing involves an employee, or to the City Manager if the wrongdoing involves a Department

Head. Any action taken involving sworn Police or Fire Department personnel cannot be in conflict with the State of West Virginia laws regarding Police or Fire personnel.

614.4 HANDLING OF REPORTED VIOLATIONS

The Department Head or City Manager will acknowledge the department's receipt of the alleged violation. All reports will be promptly investigated.

614.5 ACTING IN GOOD FAITH

Anyone filing a complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for the reported violation. The complainant must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing will be subject to discipline up to and including termination.

614.6 NO RETALIATION

Protections for whistleblowers are provided in two important areas – confidentiality and against retaliation. Insofar as possible, the confidentiality of the whistleblower will be maintained. However, identity may have to be disclosed to conduct a thorough investigation, to comply with the law. The City of Fairmont will not retaliate against a whistleblower. The City of Fairmont shall not discharge, threaten, or otherwise discriminate or retaliate against an employee by changing the employee's compensation, terms, conditions, location, or privileges of employment because the employee, acting on their own volition, or a person acting on behalf of or under the direction of the employee, makes a good faith report, or is about to report, verbally or in writing, to the employer or appropriate authority, an instance of wrongdoing or waste.

Any whistleblower who believes they are being retaliated against must contact the Personnel Officer immediately. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

SERIES 700 – CITY PROPERTY AND EQUIPMENT

701 – CYBER SECURITY

701.1 PURPOSE

- A. The Cyber Security Policy forms the foundation of the City's Information Security Program. Information security policies are the principles that direct managerial decision making and facilitate secure business operations. A concise set of security policies enables the IT team to manage the security of information assets and maintain accountability. These policies provide the security framework upon which all subsequent security efforts will be based. They define the appropriate and authorized behavior for personnel approved to use information assets.
- B. This policy includes two distinct components:
 1. General Email/Network Security and Use
 2. Bring Your Own Device (BYOD) Acceptable Use

701.2 APPLICABILITY

The Cyber Security Policy applies to all employees, interns, contractors, vendors and anyone using City owned assets or networks. Policies are the organizational mechanism used to manage the confidentiality, integrity and availability issues associated with information assets. Information assets are defined as any information system (hardware or software), data, networks and components owned or leased by or its designated representatives. **There is to be no expectation of privacy. All network usage is monitored.**

701.3 GENERAL EMAIL/NETWORK SECURITY AND USE

A. General Security Policy

1. All employees, contractors, vendors and any other person using or accessing information or information systems must adhere to the following policies.
 - a. All information systems are the property of the City and will be used in compliance with policy statements.
 - b. Any attempt to circumvent security policy statements and procedures is strictly prohibited.
 - c. Any personal information placed on information system resources becomes the property of the City; provided however that personal information shall not be subject to a request under the Freedom of Information Act in accordance with applicable law including the decisional authority of the Supreme Court of Appeals of West Virginia. Release of information will be in accordance with Policy Statements and subject to applicable law including the Freedom of Information Act and the decisional authority of the Supreme Court of Appeals of West Virginia.

- d. Unauthorized use, destruction, modification and/or distribution of information is prohibited.
 - e. All users will report any irregularities found in information or information systems to the IT team immediately upon detection.
 - f. All employees are subject to regular phishing training and testing.
 - g. Use of any information system or dissemination of information in a manner bringing disrepute, damage or ill will against the City or its employees is not authorized.
 - h. Wireless guest networks are provided for personal devices. Users may not attach personal devices to any network not designated as "Guest" or "Mobile device".
 - i. City mobile devices will be managed with a commercial mobile device management platform. There is to be no expectation of privacy.
 - j. All data must be securely disposed of when no longer required by the City, regardless of the media on which it is stored. City owned IT assets must be securely wiped with DOD grade shredding software and all media must be destroyed prior to recycling, sale or transfer of ownership to another entity.
 - k. Information systems and information are subject to monitoring at all times. Use of information systems constitutes acceptance of this monitoring policy.
 - l. All users are responsible for understanding and complying with all of the policy statements found in this Cyber Security Policy prior to use of information assets and information systems.
 - m. The IT department is the only party authorized to purchase City information assets.
2. A crisis management budget will be established for protection in the event of a cyber breach.

B. Password Policy

Poorly selected, reused passwords represent a significant threat to information security. The City has adopted this policy to ensure that the private information of our clients and our City information systems are kept secure at all times. Authorized users must comply with creation, usage and storage policies to minimize risk to City information assets.

1. Any suspicious requests for passwords must be reported to the IT team immediately.
2. When users leave the organization, their accounts will be immediately disabled.
3. Access to City-owned assets will be provided by Windows domain accounts assigned by the IT team. At no time will domain accounts be shared.
4. It is your responsibility to protect your password. Do not provide your password to anyone under any circumstances. Passwords must be changed every 90 days and may not be reused.
5. All passwords stored on information systems must be encrypted with modern encryption (AES 256bit or greater) under guidance of the IT team. Regular scans will identify insecurely saved passwords.

6. Passwords stored outside of information systems will be kept out of sight, in a secured location at all times.
7. The option to use shared local accounts will be considered on a case-by-case basis for shared PC's. The approval of such requests is at the discretion of the IT team and City Manager. All use of local PC accounts without prior approval is strictly forbidden.
8. Accounts exhibiting suspicious behavior or with a high number of failed login attempts will be locked without notice.
9. Do not reuse passwords.
10. Users must lock computer screens when unattended.
11. Passwords must meet the following minimum requirements:
 - Not contain the user's account name or parts of the user's full name that exceed two consecutive characters
 - Contain characters from three of the following four categories:
 - Uppercase characters (A through Z)
 - Lowercase characters (a through z)
 - Digits (0 through 9)
 - Symbols (for example, !, \$, #, %)
 - A password length of at least ten characters. Requirements may be more stringent for those provided access to confidential materials or administrative rights.

C. Workstation Security Policy

The Workstation Security Policy addresses the authorized and legitimate use of hardware, operating systems, software, network, file servers and all other peripherals used to access any information system. This policy applies to all employees, contractors, vendors and any other person using or accessing information or information systems. Exceptions to this policy must be approved by the City Manager and the IT team.

1. All computer peripherals must be approved in advance by the IT team. Personally owned hard drives, flash drives, phones, etc. may not be connected to any City workstation.
2. All software must be approved by the IT team prior to installation.
3. Employees will not be provided administrative rights. Exceptions will be considered on a case-by-case basis for employees whose work:
 - May affect life and safety.
 - Mandates the need to install software or make administrative changes at will.
 - Is performed outside of normal business hours.All exceptions must be approved by the IT team and City Manager in advance and recorded in writing.
4. Unauthorized copying or distributing of copyrighted software is a violation of Federal Copyright Law and will not be permitted.
5. Personal software may not be installed on any City owned equipment under any circumstances.
6. City equipment is provided for official use by City employees only.
7. The following items are City policy for security monitoring:

- a. All systems and network activities are monitored. Use of systems and networks constitutes consent to this monitoring.
 - b. If deemed necessary the City may employ third party contractors to assist with IT mission objectives and perform security testing/auditing as required.
 - c. Disabling or interfering with virus protection, security logging, auditing or monitoring software is prohibited.
 - d. All City IT assets are subject to inventory and inspection at will.
 - e. Security irregularities, incidents, emergencies and disasters related to information or system will be reported to the IT team immediately.
 - f. Sabotage, destruction, misuse or unauthorized repairs are prohibited on information systems. All repairs will be authorized and performed by the IT team, or third party if approved by IT and the City Manager.
8. City resources will not be used to cause harm to another or for any illegal activity.
 9. All data on information systems is classified as City proprietary information; provided however, that release of such is subject to this Cyber Security Policy and applicable law, including the Freedom of Information Act and the decisional authority of the West Virginia Supreme Court of Appeals.
 10. Users will secure all printed material and electronic media associated with their use of information and information systems.
 11. Storage, development or the unauthorized use of tools that compromise security (such as password crackers or network sniffers) are prohibited.

D. Outside Access Policy

1. Under no circumstance will any employee grant access to the City of Fairmont network, servers, devices, emails, or any information that is internal in nature to any outside individual. This includes maintenance to devices, servers, emails, etc. The City of Fairmont has designated individuals that have authority to grant connections from outside sources if needed.
2. All terms and conditions as stated in this document are applicable to all users of the City of Fairmont's network and internet services. All terms and conditions as stated in this document reflect an agreement of all parties and should be governed and interpreted in accordance with the policies and procedures mentioned above. Any user violating these policies shall be subject to disciplinary actions deemed appropriate by the City Manager including up to termination.
3. Access to City systems from outside of the City network requires advanced approval by the IT team and City Manager. Network usage is monitored regardless of how City assets are accessed. Rights to remotely access any system may be revoked at any time without notice.

E. Internet Acceptable Use Policy

Internet access is provided to employees to conduct business. While these resources are to be used primarily for business the City realizes that employees may occasionally use them for personal matters and therefore provides filtered

access to general websites. Internet use for non-offensive personal and non-business-related activity shall be subject to the following rules and regulations:

1. The definition of non-business sites is the sole discretion of the City Manager or the IT team. This definition can, and will, change without notice as the Internet continues to evolve.
2. Internet activity is monitored.
3. Internet activities such as public postings and participation in mail lists must not bring disrepute to, associate the City with, or otherwise damage the reputation of the City.
4. High bandwidth internet use which interferes with the daily operations of the City is forbidden. The IT team reserves the right to deny access to websites or services which interfere with the operation of critical City functions.
5. Users will not make unauthorized purchases or business commitments through the Internet.
6. City internet services will not be used for personal gain.
7. Internet users will make full attribution of sources for materials collected from the Internet. Plagiarism or violation of copyright is prohibited.
8. Release of City business information or any City proprietary information to the Internet is prohibited. Violations will be reported to law enforcement.
9. All Internet users will immediately notify the IT team of any suspicious activity.
10. All remote access to the City network and any City system will be encrypted and authenticated in a manner authorized by the IT team. All remote access will require preapproval by the City Manager and the IT team. Access may be revoked without notice at the discretion of the City Manager or IT team.
11. Accessing personal social networking accounts (including but not limited to Facebook, Twitter, LinkedIn, Foursquare and Tumblr) or using email for social networking or non-business purposes is prohibited during working hours. The use of social networking sites for specific business purposes must be pre-approved or assigned by the City Manager or their designee.
12. Do not disclose personnel information unless authorized.

F. Email Security Policy

1. The Email Security Policy specifies mechanisms for the protection of information sent or retrieved through City email. In addition, the policy guides representatives of the City of Fairmont in the acceptable use of email. For this policy, email is described as any computer-based messaging including notes, memos, letters and data files that may be sent as attachments including SMS, MMS, and IMs; sent via phone or other mobile device.
2. Authorized users are required to adhere to the following policies:
 - a. The following items are the City's policy statements for Access Controls:
 - i. All email on the information systems, including personal email, is the property of the City. As such, all email is monitored for compliance with this policy; provided however

that release of same shall be only in accordance with applicable law, including the provisions of the Freedom of Information Act and the decisional authority of the West Virginia Supreme Court of Appeals.

- ii. All City business should be conducted through your assigned City email account. No City business should be sent/received through personal email accounts.
- iii. Individual email accounts are intended to be used only by the person to whom they are assigned. Special arrangements can be made to share information between team members, such as between an employee and a department head. In all other cases, no user is authorized to open or read the email of another without the express written consent of the City Manager and the IT team.
- iv. Email is provided to enhance the ability to conduct business. Personal messages should not be conducted through the City's email system.
- v. All employees are subject to regular phishing training and testing.
- vi. Terminated employees will have access to their email accounts revoked. If said employees were provided access to shared mailbox(es) (as described in section iii) the password for any shared mailbox(es) must be promptly changed. When selecting the new password, it must differ from the format of any previously selected passwords to combat password guessing.
- vii. Following the termination of any employee the respective supervisor must notify the IT team if:
 - Historic messages must be retained;
 - Forwarding of messages sent to the employee's email address is required.

b. The following items are the City's policy statements for content:

- i. Use of profane, inappropriate, pornographic, slanderous or misleading content in email is prohibited.
- ii. Use of email to spam (i.e., global send, mail barrage) is prohibited. This includes the forwarding of chain letters.
- iii. Use of email to communicate sexual or other harassment is prohibited. Users may not include any words or phrases that may be construed as derogatory based on race, color, sex, age, disability, national origin or any other category.
- iv. Use of email to send unprofessional or derogatory messages is prohibited.
- v. Forging of email content (i.e., identification, addresses) is prohibited.
- vi. All outgoing email will automatically include the following statement: "This email is intended solely for the person or entity to which it is addressed and may contain confidential and/or privileged information. Any review, dissemination, copying, printing or other use of this email by persons or entities other than the addressee is prohibited. If you have

received this email in error, please contact the sender immediately, and delete the material from your computer.”

- c. The following items are the City’s policy statements for Usage:
 - i. Any email activity that is in violation of policy statements or that constitutes suspicious or threatening internal or external activity must be reported by the recipient to the IT team.
 - ii. Employees are responsible for the security of their accounts. Unlike other City services, email is accessible from a broad range of remote locations. As a result, additional care should be exercised when selecting a password.

G. Virus, Hostile and Malicious Code Security Policy

The intent of this policy is to better protect assets against attack from destructive or malicious programs.

1. Software will not be downloaded or installed without prior approval from the IT team.
2. Employees granted administrative privileges are expected to make every effort to verify software integrity and legitimacy when downloading software from the internet. This includes verifying digital signatures and file checksums as applicable **before** running downloaded software.
3. Only licensed and approved software will be used on any City resource.
4. The IT team will ensure that the City obtains and deploys the latest in virus protection and detection tools.
5. All information systems media will be automatically scanned for malicious software.
6. All email communications are scanned for malicious software. Despite the protections in place, employees are still asked to use extreme caution when opening e-mail attachments received from unknown senders, which may contain viruses which are not detected by the antivirus solution in place.
7. All file downloads will be scanned for malicious software.
8. The use of City resources for the development, transfer or execution of malicious software is strictly prohibited.
9. All users will report suspicious behaviors exhibited on any City resource or by City employees to the IT team immediately.
10. Coding and programming within the City of Fairmont’s Information Systems is strictly prohibited by anyone other than the IT team without prior authorization and express written consent of the City Manager and IT team.

H. Physical security

This policy is designed to reduce the possibility of physical theft of City information assets. To counter the chances of sabotage, accidental damage or service outages caused by unapproved physical access to City technological resources or data.

1. City assets must remain in a secured area at all times.
 - i. Portable City assets (e.g., laptops, tablets, cell phones) should never be left in sight while stored in a vehicle and such storage should be limited.

- ii. Assets which are not portable (e.g., servers, desktops, monitors) are not to be removed from City premises except by the IT team or with written authorization by the IT team.
- iii. All City premises must implement basic physical security protocols:
 - City information assets must remain behind a secure perimeter (e.g., a locked building, locked car) when not in sight of City personnel.
 - Records are to be kept for authorized personnel (e.g., list of employees provided keys, security cards/fobs, access level business hours/24 hours).
 - Terminated employees must return keys upon resignation.
 - Critical City information assets responsible for supporting day-to-day operations (e.g., servers, network equipment, PBX systems) must be secured by an additional physical layer (locked room where possible and locked server cabinet).
 - Physical access to Critical City information assets must be limited to the IT team and (if deemed necessary) one or two supervisors at each site.
 - Employees that are not supervisory should never be granted access to the designated secured locations containing Critical City information assets.
- iv. City owned storage media (tapes, external hard drives, flash drives, etc.) containing City data must be physically secured at all times.
- v. Network jacks located in public areas and areas accessible to visitors must be disabled and enabled when network access is explicitly authorized.
- vi. **ALL LOST OR STOLEN CITY INFORMATION ASSETS MUST BE REPORTED TO THE IT TEAM AS SOON AS DISCOVERED, REGARDLESS OF THE TIME OF DAY.**

701.4 BRING YOUR OWN DEVICE (BYOD) AND ACCEPTABLE USE (SUBJECT TO VERBAL APPROVAL AND WRITTEN AUTHORIZATION FROM CITY MANAGER)

A. PERSONAL ELECTRONIC DEVICES POLICY

This policy provides guidelines for using City IT support resources for personally owned electronic devices and related software, including, but not limited to: computers, tablets, smartphones and cell phones. The City of Fairmont recognizes that personally owned electronic devices can play a valuable role in convenience, efficiency and productivity of its employees. Nonetheless, the use of City resources, human or otherwise, for personal gain must be monitored closely. Personally owned electronic devices are only to be used on designated **guest or mobile device** networks.

For more details on the regulations regarding cell/mobile phones, see separate cell/mobile phone policy.

1. General Policy

The BYOD and Acceptable Use Policy applies to all employees, interns, contractors, vendors and anyone using City assets. Policies are the

organizational mechanism used to manage the confidentiality, integrity and availability issues associated with information assets. Information assets are defined as any information system (hardware or software), data, networks and components owned or leased by the City or its designated representatives.

2. Reimbursement

The City of Fairmont is not responsible for any costs associated with using, learning, administering or installing personally owned electronic devices.

3. Registering Devices

All personally owned electronic devices must be registered with the IT team upon approval by the City Manager.

4. End-user Support

As a general rule, users of personally owned electronic devices will not use or request City IT resources in the use, network connectivity or installation of their equipment or software. Users are responsible for using, learning, administering, installing and setting their up personally owned electronic devices.

5. Device Security

1. Personal devices connected to City networks are expected to adhere to mainstream security practices including:
 - a. Password protect all personally owned electronic devices
 - b. Do not leave personally owned electronic devices unattended.
 - c. Use a reputable antivirus product which supports automatic updates.
 - d. Use an updated operating system and current software.

6. Release of Liability and Disclaimer to Users

- a. The City of Fairmont hereby acknowledges that the use of personally owned electronic devices in connection with business carries specific risks for which you, as the end user, assume full liability and therefore, the City will not reimburse you or any other person or any third party for loss or damage which may result from the use of a personally owned electronic device. By the use of a personally owned electronic device you agree to indemnify and save the City harmless from all loss or damage caused by such use, including damage or loss suffered by you or any other person or any third party.
- b. In the case of litigation, it may be necessary for the City of Fairmont to lock, wipe and confiscate a user's personally owned device.

701.5 ACCEPTABLE USE POLICY

This policy provides rules for the acceptable use of personally owned electronic devices that are remotely connected to the City network. The Acceptable Use Policy applies to all employees, contractors, vendors and any other person using or accessing information or information systems. Exceptions to this policy must be approved by the City Manager and the IT team.

A. General Policy

1. Users that wish to access the network from a remote location or from their work location remotely using their personally owned electronic device may do so using only City authorized software and only with the prior written approval of the City Manager and the IT team.
2. Users must follow the same rules when accessing the network from both City issued equipment and personally owned electronic devices. When connected to the network, the user will NOT:
 - a. Use the service as part of violating the law.
 - b. Attempt to break the security of any computer network, system or user.
 - c. Attempt to send junk email or spam.
 - d. Attempt to send a massive amount of email to a specific person or system in order to flood their server.
3. Internet access provided to personal devices **is monitored**. Law enforcement will be notified should any illegal traffic be detected.

B. Third-party Application on Devices/Termination and Blocking

The IT team reserves the right at all times, without notice, to terminate or limit the use of any personally owned electronic device or third-party application.

C. Removal of Data

While the City does not own the device, the City does own all City or municipal data. Therefore, the City reserves the right to remotely remove City data or programs from the user's personally owned electronic devices at all times without notice to the user and in the City's sole discretion.

D. Reporting Security Concerns

In the case that a personal device contains City data the user agrees to report the following immediately:

1. If the device is lost or stolen;
2. If the device has been attacked with malware, a virus or any other suspicious attack;
3. Any other security concern with regards to City data or the continued operation of City networks and systems.

E. Assumption of Risk/Indemnification/Hold Harmless/Non-liability of City

The user acknowledges that the use of a personally owned device that is remotely connected to the City's network is for the user's sole benefit. By seeking approval for use of a personally owned electronic device that is remotely connected to the City network, the user agrees to assume all risk of such connection and the user further agrees to indemnify and hold the City harmless from all loss or damage caused by such use, or resulting from the connection or the termination or blocking or limiting of such use or the removal of a third party application, all of which user acknowledges can occur at any time without notice to the user, including damage or loss suffered by user or any other person or any third party. Further, the user acknowledges that the City shall not be liable to any user, person or any third party for loss or damage which may result from IT's terminating, blocking or limiting the use of any personally owned electronic device or third-party application without notice to the user.

701.6 DISCIPLINARY ACTION

Violation of the standards, policies and procedures presented in this document will result in disciplinary action, from warnings or reprimands up to and including termination of employment. Claims of ignorance, good intentions or using poor judgment will not be used as excuses for non-compliance.

SERIES 700 – CITY PROPERTY AND EQUIPMENT

702 – VEHICLES

702.1 ALLOWANCES FOR THE USE OF PRIVATELY OWNED VEHICLES ON CITY BUSINESS

Employees using their private vehicles in the conduct of City business may receive mileage reimbursement as provided by regulations established by the IRS. This use shall require prior approval of the employee's department head and said employee must submit proof of insurance or provide documentation that said vehicle is properly insured as required by the West Virginia Code.

702.2 TRANSPORTING NON-CITY EMPLOYEES IN CITY VEHICLES

City vehicles, with the exception of those driven by Police/Fire First Responders, may not be used for the transportation of non-city employees. Employees with sufficient cause to warrant deviation from this procedure must obtain written authorization from the City Manager and/or City Attorney. Failure to conform to this rule will result in the employee's loss of the privilege to operate City vehicles, which could impact employment status with the City of Fairmont.

702.3 DEFENSIVE DRIVING TRAINING

City employees who operate a City vehicle may be required to participate in defensive driving courses. Failure to successfully complete said course will result in the employee's losing their privilege to operate City vehicles, which could impact employment status with the City of Fairmont.

702.4 CITY VEHICLES DRIVEN TO RESIDENCE

All employees shall obtain the prior approval of the City Manager before taking a City vehicle to their residence. The use of any such City vehicle shall be restricted exclusively to City business.

SERIES 700 – CITY PROPERTY AND EQUIPMENT

703 – CELL PHONES

703.1 PURPOSE

To establish a written policy on the issuance and usage of City-issued cell/mobile phone devices for valid City of Fairmont business use and the provision by the City of Fairmont of a cell/mobile phone stipend for the regular/periodic/occasional use of personal (employee owned/utilized) cell/mobile devices for valid City of Fairmont business.

703.2 SCOPE

- A. This policy and related procedures are for all City of Fairmont employees when conducting valid City of Fairmont business. It is intended to ensure a consistent, fair, and efficient process for all City of Fairmont employees whose job duties and responsibilities within their applicable work day, or periodic, non-regular work day emergencies or call-backs as determined by their Department Head (with City Manager approval) and/or City Manager, may require occasional/periodic cell/mobile phone and/or data connectivity usage.
- B. Employees whose job duties include the occasional need for a cell/mobile phone may receive compensation, in the form of a cell/mobile phone stipend, to cover valid City business-related costs on their personal cell/mobile phone. No further reimbursement for cell/mobile phone costs is available to employees who receive such a stipend. The City may also maintain a limited number of cell/mobile phones assigned to a specific department. These cell/mobile phones are to be used only for valid City of Fairmont business and private/personal use of these cell/mobile phones is strictly prohibited.
- C. As a general rule, cell/mobile phones should not be selected as an alternative to other means of communication, such as land-lines, pagers, and/or radios, when such alternatives would provide adequate, but less costly service to the City.

703.3 DEFINITIONS

- A. Cell/mobile phone: a portable device for connecting to a telecommunications network in order to transmit and receive voice, video, text, or other data that is normally used for one or more of the following communications purposes:
 - 1. Voice - to make and/or receive two-way voice communications among/between people and other voice recordings;
 - 2. Text Messaging - to send and/or receive typed reading/message communications, commonly known as text messages, requiring the keying or typing of letters, characters, symbols, numbers, and other, among/between people;
 - 3. Data/Internet - to connect to internet (World Wide Web) sites and related

phone and/or data information and interactive applications for the purposes of obtaining, reading, reviewing, analyzing words, pages, figures, numbers, and other on the device's screen.

Devices primarily utilizing voice or voice and text are normally classified as Basic, whereas devices with additional uses including data/data connectivity are normally classified as Smart or Data phones.

- B. Cell/mobile phone service: one or more purchased or leased communication services involving individual and/or two-way communications commonly known as voice, texting/messaging, and/or data.
- C. Cell/mobile phone service provider: a private company providing/selling cell/mobile phone devices and one or more cell/mobile phone services on or for a cell/mobile phone device.
- D. City: City of Fairmont.
- E. City Business Use: cell/mobile phone usage during normal business hours or other as designated and approved by the Department Head and/or City Manager for a valid City of Fairmont business use to assist in the direct performance of City job-related duties and responsibilities.
- F. City-issued cell/mobile phone: a cell/mobile phone owned by the City provided by the applicable City of Fairmont department to a specific employee or pool to utilize for valid City of Fairmont business communications use.
- G. City Manager: individual selected and appointed by the City Council to serve as the chief administrative officer of the City and any successors or assigns.
- H. Department Head: individual selected and appointed by the City Manager to direct, manage, operate, etc., one of the City services departments.
- I. Employee: an individual hired as a full-time worker by/for the City of Fairmont.
- J. Personally (personal) owned/utilized cell/mobile phone: a cell/mobile phone owned or utilized by an employee in which the employee has personally purchased or leased the cell/mobile phone and/or personally pays or leases for a pre-paid and/or recurring monthly voice, messaging, and/or data services plan and/or is directly in possession of the cell/mobile phone and utilizes said cell/mobile phone to primarily communicate with family, friends, acquaintances or other for purposes other than valid City of Fairmont business.
- K. Pooled cell/mobile phone usage: a cell/mobile phone assigned to either a vehicle or group of employees to share during the employee's normal City work day/shift.
- L. Private/Personal Use: cell/mobile phone usage outside of normal City business hours and/or for a purpose/usage other than valid City of Fairmont business use.
- M. Service Contract: a purchased or leased agreement for a certain period of time (monthly, quarterly, annual, etc.), from a cell/mobile phone service provider, for cell/mobile phone services.

- N. Stipend: a fixed monthly dollar amount paid to an employee through their regular bi-weekly payroll to partially compensate the employee for valid City business-related costs incurred when using their personally owned/utilized cell/mobile phone.
- O. User Agreement: a written agreement stipulating the provisions of these Cell mobile/phone policy/procedures including equipment distribution, usage, and City and employee responsibilities signed by the employee and the City Manager.
- P. Vehicle, City of Fairmont: all types of transportation vehicles or other transportation owned by the City of Fairmont either directly assigned or made available to a City employee to utilize for valid City business use.

703.4 PROCEDURES FOR CELL/MOBILE PHONE OR STIPEND ISSUANCE

- A. City Manager will make the final determination which City employees will receive either a City-issued cell/mobile phone to utilize for valid City business communications use or a stipend for valid City business use on their personally owned/utilized cell/mobile phone.
- B. City-owned Cell/Mobile Phone Issuance
 - 1. City-issued basic cell/mobile phones will be distributed to an employee to utilize only for valid City of Fairmont business use during working hours or emergencies as determined by the department head (upon City Manager approval) or by the City Manager. Private/Personal use of City-issued cell/mobile phones is strictly prohibited.
 - 2. A Department Head may alternatively choose to assign a City-issued basic cell/mobile phone to a City of Fairmont vehicle or for another pooled usage, such as same job classification employees on shift work. Such usage will require the Department Head to complete the User Agreement as the responsible entity for any and all pooled phones. Such pooled phones will similarly only be utilized for valid City of Fairmont business use; private/personal use is strictly prohibited.
- C. Employee will acknowledge receipt of City-issued basic cell/mobile phone by completing the City of Fairmont Cell/Mobile User Agreement.
- D. Cell/Mobile Phone Stipend
 - 1. Cell/mobile phone stipends shall be provided to an employee to utilize their personally owned/utilized cell/mobile phone for valid City of Fairmont business use. The City Manager will give final approval on all cell/mobile phone stipends.
 - 2. Stipend Amount: The standard monthly cell/mobile phone stipend amounts shall be \$40.00 for uses that may necessitate the use of data (in addition to voice and text) or \$20.00 for basic voice and/or text usage. It is important to note that the stated stipend amounts are to offset personal cell/mobile plan costs and are not intended to cover all costs. No further reimbursement for cell phone costs is available to employees who receive a stipend.

3. Stipend Payment: The approved cell/mobile phone stipend will be paid as part of the employee's bi-weekly pay in 24 of 26 annual payments. The stipend payment is provided to an employee for business use and is therefore not considered compensation (IR Notice 2011-93). The stipend is treated as a non-taxable reimbursement payment. This stipend does **not** constitute an increase to base pay or subject to the pension base or other rate calculation(s), and will **not** be included in the calculation of percentage increases to base pay due to salary increases, promotions, etc., nor will it be included in any retirement/pension withholdings and benefit calculations.
4. Employee Responsibilities: The employee must retain an active cell/mobile phone contract as long as the employee receives the cell/mobile phone stipend. The employee must provide their department head and the City Manager with their current cell/mobile phone number and immediately notify both parties if the number changes or upon loss, misplacement, and/or theft of the cell/mobile phone and subsequently notify upon replacement.
5. Employees may choose the cell/mobile phone service provider and plan design of their choice. If available from the City's contracted cell/mobile phone service provider, employees may be able to take advantage of discounts for their personal service plans if they utilize the same provider as the City.
6. Because the employee owns/utilizes the cell/mobile phone personally, and the stipend provided is non-taxable income, the employee may use the phone for both business and personal purposes, as needed. All valid City business use may be subject to a Freedom of Information Act (FOIA) request. By agreeing to receive the stipend employees must, upon request, provide a copy of their valid City business use call activity (private/personal use will be redacted). Use of the cell/mobile phone in any manner contrary to local, state, or federal laws will constitute misuse, and will result in immediate termination of the cell/mobile phone stipend.
7. If, prior to the end of the cell/mobile phone contract, a personal decision by the employee, or employee misconduct, or misuse results in the cell/mobile phone stipend being discontinued or the need to end or change the cell/mobile phone service contract, the employee will bear the cost of any fees associated with that change or cancellation. For example, if an employee resigns, and no longer wants to retain the current cell/mobile phone contract for personal purposes, any cancellation charges will be the employee's responsibility.

703.5 USAGE & OTHER

- A. All usage of City-issued cell/mobile phones will only be for valid City of Fairmont business use. Private/Personal use is strictly prohibited.
- B. Except as provided by State and City law, employees are not allowed to use their cell/mobile phone (either City-issued or personal) while driving on City business unless a hands-free device is used. Even when using a hands-free device, conducting City business on a cell/mobile phone while driving should be kept to a

minimum and only done when absolutely necessary. To further promote driver safety, it is highly recommended that an employee pull over, when safe, to the side of a road when driving to make/receive/utilize a cell/mobile phone.

- C. Any and all questions, interpretations, or other regarding this cell phone policy shall be directed to the City Manager for a final response and/or decision.

SERIES 800 - MISCELLANEOUS POLICIES

801 - ALLOWANCES FOR LOSS OF PERSONAL BELONGINGS IN SERVICE-CONNECTED ACCIDENTS

When an employee suffers the damage or loss of wearing apparel or other personal effects necessary to the performance of their duty as the result of a service-connected accident, the employee shall immediately report same on a First Report of Incident form. Determination regarding payment for costs incurred as a result of such accident shall be made by the Personnel Officer on advice of the Department Head. Reimbursement will be considered on a case-by-case basis and will be based on comparable replacement.