

## TITLE 4

### MUNICIPAL PERSONNEL

#### CHAPTER

1. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES.
2. PERSONNEL SYSTEM.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. COMPLIANCE MANUAL REGARDING TITLE IV OF THE CIVIL RIGHTS ACT OF 1962.
5. TRAVEL REIMBURSEMENT REGULATIONS.

#### CHAPTER 1

### SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

#### SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.
- 4-106. Exclusion of coverage due to another retirement.
- 4-107. Benefits extended to other employees and officials.

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of the City of Erin to provide for all eligible employees and officials of the municipality, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the City of Erin shall take such action as may be required by applicable state and federal laws or regulations. (1974 Code, § 1-701)

**4-102. Necessary agreements to be executed.**<sup>1</sup> The city attorney is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1974 Code, § 1-702)

**4-103. Withholdings from salaries or wages.** Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at

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<sup>1</sup>See Ord. #488 (June 1995) of record in the office of the recorder for amendments to the Social Security Agreement by and between the City of Erin, Tennessee, and the State Old Age and Survivors Insurance Agency.

such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1974 Code, § 1-703)

**4-104. Appropriations for employer's contributions.** There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1974 Code, § 1-704)

**4-105. Records and reports to be made.** The municipality shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1974 Code, § 1-705)

**4-106. Exclusion of coverage due to another retirement.** There is excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the city. (1974 Code, § 1-706)

**4-107. Benefits extended to other employees and officials.**<sup>1</sup> The provisions of this chapter are extended to include all fee basis employees, part-time employees, and elective, legislative, executive and judicial officials. (1974 Code, § 1-707)

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<sup>1</sup>See Ord. #488 (June 1995) of record in the office of the recorder for amendments to the Social Security Agreement by and between the City of Erin, Tennessee, and the State Old Age and Survivors Insurance Agency.

## CHAPTER 2

### PERSONNEL SYSTEM

#### SECTION

- 4-201. Personnel policies.
- 4-202. Classification plan.
- 4-203. Compensation plan.
- 4-204. Employment.
- 4-205. Benefits.
- 4-206. Miscellaneous policies.
- 4-207. Separations and disciplinary actions.
- 4-208. Amendment of personnel rules.
- 4-209. Appendices.
- 4-210. Repeal of ordinances.

**4-201. Personnel policies.** (1) Purpose and objectives. The purpose of these policies and procedures is to establish a high degree of understanding, cooperation, efficiency, and unity among municipal government employees which comes from a systematic application of good procedure in personnel administration, and to provide uniform policies for all employees, with all the benefits such a program ensures without regard to race, sex, age, national origin, creed, and handicapping condition.

The fundamental objectives of good personnel administration to be achieved by these policies and procedures are:

- (a) To promote and increase efficiency and economy among employees of the City of Erin.
- (b) To provide fair and equal opportunity to all qualified individuals on the basis of demonstrated merit and fitness as ascertained through fair and practical methods of selection.
- (c) To develop a program of recruitment, advancement and placement that will make employment with the city more attractive as a career and encourage each employee to render the best service.
- (d) To establish and maintain a uniform plan of evaluation and compensation.
- (e) To establish and promote high morale among the employees by providing good working relationships, a uniform personnel policy, opportunity for advancement, and consideration for employee needs and desires.

(2) Personnel policy statement. It is the policy of the City of Erin to apply and foster a sound program of personnel management. The personnel policies of the municipal government are as follows:

- (a) Employment and placement.

(i) To fill all positions, without undue delay, in accordance with job qualifications and requirements without discrimination as to race, color, creed, national origin, gender, ancestry, disability, or political affiliation.

(ii) To establish programs for the promotion, transfer, demotion, dismissal and reassignment of personnel.

(b) Position classification and pay administration.

(i) To establish and maintain job descriptions for every position with the descriptions maintained on file with the city recorder.

(ii) To review position descriptions periodically and systematically with incumbent employees to ensure they accurately reflect the current job requirements.

(iii) To establish appropriate position standards and to group positions in classes with similar standards.

(iv) To conduct area wage and salary surveys periodically in order to provide competitive wage and salary scales.

(c) Employee relations and services.

(i) To establish rules and standards governing employee conduct both on and off the job.

(ii) To administer a uniform leave program.

(iii) To provide employee grievance procedures.

(iv) To develop a handbook to inform employees of their responsibilities and privileges.

(d) Employee development and training.

(i) To establish training standards and requirements for all positions.

(ii) To motivate and stimulate employees to achieve their highest potential usefulness.

(e) Records. To establish and maintain comprehensive and uniform personnel records.

(3) Coverage. These policies and procedures shall cover all employees in the city service unless specifically exempt by this chapter, the city charter and/or the ordinances of the municipality without regard to race, religion, national origin, political affiliation, sex, age, or disability.

All offices and positions of the municipal government are categorized as either classified or exempt. Classified positions shall include all regular full-time and regular part-time positions in the city's service unless specifically placed in the exempt service. All offices and positions of the municipal government categorized as exempt are as follows:

(a) All elected officials.

(b) Members of appointed boards and commissions.

(c) Consultants, advisers, and legal counsel rendering temporary professional service.

- (d) City attorney.
- (e) Independent contractors.
- (f) Persons employed by the municipality for not more than three (3) months during a fiscal year.
- (g) Part-time employees paid by the hour or the day, and not considered regular.
- (h) Volunteer personnel appointed without compensation.
- (i) City judge.

(4) Administration. These policies and procedures shall be administered by the mayor under the direction of the board of mayor and aldermen in conformity with the ordinance establishing a personnel system. Amendments to the policies and procedures shall be made as indicated herein. The city reserves the right to alter or change any or all of its policies and procedures without prior notice to employees. Nothing in these personnel policies and procedures shall be deemed to give employees any additional property rights in their jobs than may already be given by the city charter. (1974 Code, § 1-801, as replaced by Ord. #618, June 2019 **Ch9\_6-8-21**)

**4-202. Classification plan.** (1) Purpose. The classification plan provides a complete inventory of all positions in the municipal government's service and an accurate description and specifications for each class of employment. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities and has the same meaning throughout the city service.

(2) Composition of the classification plan. The classification plan shall consist of:

- (a) A grouping of classes of positions which are approximately equal in difficulty and responsibility, which call for the same general qualification, and which can be equitably compensated within the same range of pay under similar working conditions;
- (b) Class titles descriptive of the work of the class which identifies the class;
- (c) Written specifications for each class of performance; and
- (d) Physical standards for performance of the duties of the position.

(3) Use of class titles. Class titles are to be used in all personnel, accounting, budget appropriation and financial records of the municipality. No person will be appointed or employed in a position in the city service under a title not included in the classification plan.

(4) Use of class specifications. Specifications are to be interpreted in their entirety and in relation to others in the classification plan. Particular phrases or examples are not to be isolated and treated as a full definition of the class. Specifications are deemed to be descriptive and explanatory of the kind of work performed and not necessarily inclusive of all duties performed.

(5) Use of the classification plan. The classification plan is to be used:  
(a) As a guide in recruiting and examining candidates for employment;

(b) In determining lines of promotion and in developing employee training programs;

(c) In determining salaries to be paid for various types of work;

(d) In determining personal service items in departmental budgets, i.e., training and travel; and

(e) In providing uniform job terminology understandable by all municipal government officers and employees and by the general public.

(6) Administration of the classification plan. The mayor is charged with maintaining the classification plan of the municipal government so that it will reflect the duties performed by each employee in the service of the city and the class to which each position is allocated. It is the duty of the mayor to examine the nature of the classes of positions, to make such changes in the classification plan as are deemed necessary by changes in the duties and responsibilities of existing positions and periodically to review the entire classification plan and recommend appropriated changes in allocations or in the classification plan to the board of mayor and aldermen. The board shall then approve or change such recommendations.

(7) Allocation of positions. Whenever a new position is established, or duties of an old position change, the supervisors shall submit in writing a comprehensive job description describing in detail the duties of such a position. The mayor shall investigate the actual or suggested duties and recommend to the board of mayor and aldermen the appropriate class allocation or the establishment of a new class. The board shall then approve or change such recommendations.

(8) Request for reclassification. Any employee who considers his/her position improperly classified shall first submit his/her request to their immediate supervisor who shall take the request into consideration. Nothing in these personnel policies and procedures shall be deemed to give employees any additional property rights in their jobs than may already be given by the city charter; If the department head/supervisor finds the request is not justified, he/she shall advise the employee of his/her decision and also the employee's right to appeal the decision under the grievance procedures. If the supervisor finds that there is merit in the request, he/she shall immediately transmit his/her recommendation to the mayor. The mayor shall investigate the actual or suggested duties and recommend to the board of mayor and aldermen the appropriate class allocation for the establishment of a new class. The board shall then approve or change such recommendations.

(9) Job descriptions. (See Appendix A.) (1974 Code, § 1-802, as replaced by Ord. #618, June 2019 **Ch9\_6-8-21**)

**4-203. Compensation plan** (1) Purpose. The pay plan is intended to provide fair compensation for all classes in the classification plan in consideration of the pay for other classes, general rates of pay for similar employment in private establishments and other public jurisdictions in the area, cost of living data, the financial condition of the municipality, and other factors.

(2) Maintenance of the pay plan. The mayor will from time to time make comparative studies of all factors affecting the level of salaries and will recommend to the board of mayor and aldermen such changes in the salary schedule as appear to be in order.

(3) Pay for part-time work. When an employment decision is for a part-time position, only the proportioned part of the rate for the time actually employed will be paid.

(4) Hourly rates. In accordance with the Fair Labor Standards Act (FLSA), no employee, whether full-time, part-time or probationary, shall be paid less than the federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations. Employees paid on an hourly rate basis are paid for all time actually worked. (1974 Code, § 1-803, as replaced by Ord. #618, June 2019 *Ch9\_6-8-21*)

**4-204. Employment.** (1) Applications. All applications for employment are received at city hall, and given thorough consideration by the appropriate supervisor. The City of Erin exercises a policy of fairness to every person who applies for work. The mayor, in cooperation with the supervisor involved, is responsible for the proper selection and placement of persons in various departments through the city. The mayor will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations.

Applications may be removed from consideration if:

(a) The applicant declines an appointment when offered.  
 (b) The applicant cannot be located by the postal authorities. It shall be deemed impossible to locate an applicant when a communication mailed at the last known address is returned unclaimed.

(c) The applicant is currently using narcotics, or his/her excessive use of intoxicating liquors will pose a direct threat to the health and safety of others.

(d) The applicant is found to have been convicted of a felony or a misdemeanor involving moral turpitude, as the term is defined by law.

(e) The applicant has made false statement of material fact on the application.

(f) The application was not filed within the period specified in the examination announcement or was not filed on the prescribed form, or uses a different format than allowed as a reasonable accommodation.

(g) The applicant does not possess the minimum qualifications as indicated by the classification plan.

(h) Their application has been on file over six (6) months.

(2) Recruitment. The City of Erin shall make every effort to attract qualified applicants for various types of positions. In so doing, the city shall prepare and publish a public notice of a vacancy when they occur, and place such notices at designated sites in city hall and such other sites as may be designated. Individuals shall be recruited from a geographic area as wide as necessary to assure obtaining well qualified applicants for any open position.

(3) Physical examinations.

(a) Pre-employment. Following a conditional offer of employment, every prospective employee shall be given a physical examination by a licensed physician designated by the municipal government prior to the time he/she is hired, to determine if he/she can perform the essential functions of the position offered. The cost of this physical examination shall be borne by the city. Applicants who are unable to successfully perform the essential functions tested for the medical examination shall have their offer of employment by the city withdrawn only if they:

(i) Cannot perform the essential functions due to a disability that cannot reasonably be accommodated;

(ii) Pose a direct threat to themselves and/or others; or

(iii) Are unable to perform the essential functions due to a temporary condition or disability not protected by the ADA.

(b) Post-employment. All employees of the city may, during the period of their employment, be required by the superiors and with the approval of the mayor, to undergo periodic medical examinations to determine their physical and mental fitness to perform the work of the position in which they are employed. This periodic medical examination shall be at no expense to the employee. Determination of the physical or mental fitness will be by a physician designated by the city.

When an employee of the city is reported by examining physician to be physically or mentally unfit to perform the work of the position in which he/she is employed, the employee may, within five (5) days from the date of his/her notification of such determination, indicate in writing to the mayor and his/her intention to submit the question of his/her physical or mental unfitness to a physician of his/her own choice.

In the event there is a difference of opinion between the examining physician and the physician chosen by the employee, a physician shall be mutually agreed upon and designated by the examining physician and the physician chosen by the employee. The third physician's decision shall be final and binding as to the physical or mental fitness of the employee. The municipal government shall pay its physician; the employee shall pay his/her physician and the third physician shall be paid by the city.

An employee determined to be physically or mentally unfit to continue in the position in which he/she is employed may be demoted in

accordance with these policies and procedures or separated from the municipal government service only after it has been determined that they:

- (i) Cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or
- (ii) Pose a direct threat to themselves and/or others.

(4) Minimum age. The Fair Labor Standards Act requires that employees of state and local governments be at least sixteen (16) years of age for most non-farm jobs and at least eighteen (18) to work in non-farm jobs declared hazardous by the Secretary of Labor. Minors fourteen (14) and fifteen (15) years of age may work outside school hours under certain conditions.

(5) Types of employees.

(a) Regular full-time employee (per hour or per month). A regular full-time employee is a employee who works a minimum of thirty-six (36) hours, and who is subject to all conditions of employment and receiving all benefits. Regular employees serve a twelve (12) month probationary period.

(b) Regular part-time employee. Regular part-time employees work on a regular basis, and their hours will not exceed twenty-six (26) hours per week unless approved by the mayor. These employees will not receive benefits except coverage under Worker's Compensation.

(c) Temporary employee and/or seasonal employee. A temporary employee is an employee who works full-time but not exceeding twelve (12) weeks per calendar year and who is paid on a per day or per hour basis. Temporary employees are not subject to all the conditions of employment but shall be fully capable of performing the assigned duties. These employees will not receive benefits except coverage under Worker's Compensation.

(6) Appointments, promotion, demotions, transfers and citizenship status verification. Pursuant to the city charter, the mayor has the authority to appoint, promote, demote, transfer, suspend and remove all officers and employees of the City of Erin. The city will not discriminate on the basis of a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the city will not knowingly employ any person who is or becomes an unauthorized immigrant. In compliance with the Immigration Reform and Control Act, all employees hired after November 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three (3) days of employment or the individual will be terminated.

(a) Appointments. Appointments to positions with the municipal government fall into four (4) categories. They are:

- (i) Original appointment. When a non-employee passes all the requirements of employability and is offered employment.

(ii) Provisional appointment. When the municipality is unable to fill a vacancy because of an insufficient number of applicants, the mayor may authorize the supervisor to fill the vacancy by a provisional appointment. Provisional appointments require the prior approval of the board of mayor and aldermen and no payment shall be made for services rendered by the appointee prior to the appointment.

(iii) Emergency appointments. The mayor may authorize the appointment of any qualified person to a position to prevent the stoppage of public business or loss or serious inconvenience to the public. Emergency appointments shall be limited to a period not to exceed a total of ninety (90) days in any twelve (12) month period.

(iv) Student appointments. Students, majoring in a field of value to the municipal government from a qualified, cooperating educational institution, may be employed on an "internship" basis for a period not to exceed twelve (12) months. The appointment must be approved by the board of mayor and aldermen.

(b) Promotions. A promotion is an assignment of employee from one (1) position to another, which has a higher maximum rate of pay, rank and responsibility. Vacancies in positions above the lowest rank in any category in the classified service shall be filled as far as practical by the promotion of current employees. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation.

When an employee in one (1) classification is promoted to a position in another classification and the employee's current rate of pay is less than the minimum rate for the new position, the employee's salary shall be raised to that minimum rate. When the employee's salary falls above the new minimum rate, a percentage increase as determined by the board of mayor and aldermen shall be given.

(c) Transfers. When an employee desires to transfer from one (1) department to another, it must be agreeable to both supervisors involved and approved by the board of mayor and aldermen. The transfer of an employee from one (1) position to another without a significant change in responsibility or difficulty may be effective:

(i) When the employee meets the qualification requirements for the new position;

(ii) If it is in the best interest of the municipal government;

(iii) If it meets the personal needs of the employee as consistent with the other requirements of these policies and procedures; and

(iv) Are unable to perform the essential functions due to a temporary condition or disability not protected by the ADA.

(d) Demotions. A demotion is an assignment of an employee from one (1) position to another which has a lower maximum rate of pay, rank and responsibility. An employee may be demoted for any of the following reasons:

(i) Because his/her position is being abolished and he/she would otherwise be laid off;

(ii) Because his/her position is being reclassified to a higher grade and the employee lacks the necessary skill to successfully perform the job;

(iii) Because there is a lack of work;

(iv) Because there is a lack of funds;

(v) Because another employee, returning from authorized leave granted in accordance with the policies on leave, will occupy the position to which the employee is currently assigned;

(vi) Because the employee does not possess the necessary qualifications, or is physically or mentally unable to render satisfactory service in the position he/she holds;

(vii) Because the employee voluntarily requests such a demotion and it is available; and/or

(viii) As a form of disciplinary action.

When an employee on classification is demoted to a position in a lower classification and the employee's rate of pay is higher than the maximum rate for the new position, the employee's salary shall be reduced to the maximum rate of the new classification.

(e) Transfers. An employee who transfers from one (1) municipal government department to another will retain all benefits earned or accrued as of the date of transfer. As a general rule lateral transfers require no increase in compensation.

(7) Performance appraisal/evaluation. The performance of all employees will be appraised and reviewed annually by their immediate supervisors. Written appraisals will be discussed with the employee so that they will know how they are progressing and what they may do to improve their performance. By this means, it is intended that all employees will have adequate opportunity to correct any weakness that may interfere with their progress. Employees may appeal the results of the evaluation in accordance with the appeal process contained in these policies and procedures.

(8) Moonlighting/outside employment. No full-time employee of the municipality shall accept any outside employment without written authorization from the mayor. The mayor shall not grant such authorization if the work is likely to interfere with satisfactory performance of the employee's duties, or is incompatible with his/her municipal employment, or is likely to cast discredit upon or create embarrassment for the municipality.

(9) Work day/work week. Pursuant to the Fair Labor Standards Act, a workweek is a regular recurring period of one hundred sixty-eight (168) hours consisting of seven (7) consecutive twenty-four (24) hour periods. Except as provided in special contracts of employment, the number of days that shall constitute a workweek for regular employment shall be five (5) per week. Schedules will vary in departments as necessary for the smooth operation of the city. A standard workweek is scheduled between 12:01 A.M. on Sunday through 11:59 P.M. on the Saturday following.

(10) Attendance. Punctual and regular attendance is necessary for the efficient operation of the city. Employees unavoidably late or absent from work due to illness or other cause must notify their supervisor as early as possible, explaining the reason for the absence and, if possible, an anticipated return to work date. Failure to notify one's supervisor of an absence may result in disciplinary action. Employees found falsifying on their time sheets, or misusing the time clock will be subject to immediate dismissal. Excessive tardiness is regarded as sufficient reason for termination.

(11) Overtime pay. When it becomes necessary for an employee to work overtime hours, regular employees, part-time employees and temporary employees shall be paid according to the prevailing salary schedule. Overtime work will be compensated in accordance with the provisions of the Fair Labor Standards Act at a rate of one and one-half (1-1/2) the employee's regular rate. Overtime work may also be paid with compensatory time at a rate of one and one-half (1-1/2) times the hours worked in accordance with the Fair Labor Standards Act. Overtime work must be authorized by the department supervisor.

Personnel required to work on a "call-out" basis, outside the normal work hours, will be compensated at the rate of one and one-half (1-1/2) times the normal rate, not less than two (2) hours per occurrence.

(12) Nepotism. No person who is a member of the immediate family of the mayor or members of the board of mayor and aldermen shall be employed by the city. The immediate family is defined as the mayor's or alderman's spouse, children, father, mother, brother, or the spouse or children of the above. The immediate family is further defined to include all in-law relationships, nieces, nephews and first cousins. (1974 Code, § 1-804, as replaced by Ord. #618, June 2019 *Ch9\_6-8-21*)

**4-205. Benefits.** (1) Legal holidays. All offices and shops of the City of Erin, except emergency and necessary operations, will be closed and employees excused from work on the following legal holidays:

New Year's Day	January 1
Martin Luther King Jr. Day	Third Monday of January
President's Day	Third Monday of February
Good Friday	Friday before Easter

Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Eve	December 24
Christmas Day	December 25

When a legal holiday falls on Saturday, offices will be closed the preceding Friday, When a holiday falls on Sunday, the following Monday shall be observed. (Holidays listed above will be the only paid holidays observed.)

(2) Holiday pay. All holiday pay will be computed on the basis of a regular work day and only those employees normally scheduled on a rotating shift will be eligible for such pay. Eligible employees will be compensated at a double time rate of pay. Any other employee required to work on a scheduled holiday will receive a double time rate of pay if called upon in an emergency situation. Employees eligible for holiday pay must be in a pay status his/her last regular shift scheduled before a holiday and his/her first regularly scheduled shift after a holiday in order to receive compensation for the holiday.

Holidays which occur during a vacation, sick or other leave period of any employee of the city shall not be considered as a vacation, sick or other leave.

Holiday pay will be paid to employees working on city observed holidays as mentioned in this policy.

(3) Annual vacation with pay. After one (1) year a regular full-time employee is granted forty (40) hours of annual leave. After twenty-four (24) months a full-time employee shall be given eighty (80) hours of annual leave per year. Employees with ten (10) years of service may earn eight (8) additional hours of annual leave for every year after ten (10) years of service up to a maximum of one hundred twenty (120) hours of annual leave.

Upon separation, employees are entitled to be reimbursed for up to a maximum of ten (10) hours of unused annual leave time. Employees may accumulate up to a maximum of eighty (80) hours of annual leave that may be rolled over from one (1) calendar year to the next calendar year. Payment may be made in lieu of vacation up to, but not exceeding, eighty (80) hours at the employee's regular rate of pay.

Vacations will be scheduled in advance for the mutual convenience of the employee and the city government so proper adjustments can be made in the work schedules. Supervisors preparing vacation schedules will give choice of dates based on seniority of the personnel in his/her department and no employee may begin his/her annual leave until his/her request has been approved by the supervisor.

An employee who is separated from the employment of the city shall be paid for his/her unused annual leave on a regular pay period basis. The

termination date shall coincide with last date of pay. In no event will an employee who has not completed at least one (1) year of satisfactory service receive an annual leave payment.

Legal holidays falling within a vacation period are not to be counted as a day of annual leave. When an employee is on "leave without pay" for fifteen (15) days during any calendar month, no leave will accumulate. Employees may not borrow against future annual leave nor transfer earned annual leave to another employee.

Service in the Tennessee National Guard, State Militia, or Military Reserves may be paid as annual leave at the option of the employee. Employees electing to coincide vacation with military leave shall receive full pay for the amount of specified annual leave taken.

(4) Sick leave. Generally, employees are permitted to use sick leave when:

(a) They are incapacitated by sickness or non-job related injury, for medical, dental, or optical diagnosis and treatment.

(b) Required for the necessary care and attendance to, or death of a member of the employee's immediate family when approved by their supervisor.

#### Immediate Family

Husband	Wife
Father	Mother
Brother	Sister
Son	Daughter
Father-in-law	Mother-in-law
Grandparent (including those of a spouse)	Legal foster parents and children

Immediate family shall also include sons-in law, daughters-in-law, grandchildren, step-parents and step-children.

(c) Exposure to a contagious disease, requiring notice from a qualified doctor, that the employee may jeopardize the health of others.

Each regular full-time employee will accrue sick leave at the rate of eight (8) hours per month. If accrued sick time is unused at the time an employee retires, accumulated sick leave shall be credited to the employee's retirement account as creditable service.

To prevent abuse of the sick leave privilege, the mayor and/or supervisors are required to satisfy themselves that the employee is genuinely ill before paying sick leave. Any absence may require a doctor's

certificate to return to work, and any absence in excess of two (2) consecutive work days will require a doctor's certificate to return to work, if in the opinion of the mayor such action is deemed appropriate.

Any sick leave used to fill out a day must be approved by the mayor or the department head before leaving work that day. It will not be approved the next day. At no time can sick leave be used to "fill out" a week of less than forty (40) hours worked or as compensation for leaving work early. Anyone caught using sick leave for any purpose other than stated above will be in violation of these personnel policies and procedures.

Each day deducted from an employee's sick leave accumulation shall be for a regular work day and shall not include holidays and scheduled off days. Claiming sick leave while on annual leave must support their claim with a doctor's statement. When an employee is on "leave without pay" for fifteen (15) days during any calendar month no sick leave will accumulate.

Absence from work while sick will be computed on the basis of a regular work day for employees normally scheduled on a rotating shift. Regular scheduled employees will be charged eight (8) hours of sick leave for eight (8) hours of absence while sick.

Employees may not borrow against future sick leave. An employee upon exhausting all accumulated sick leave, may use accumulated annual leave or take leave without pay.

If an employee leaves the city service for any reason other than retirement, that employee shall forfeit all accumulated sick time.

(5) Special leave with or without pay. "Special leave" is defined as time off from regular work which can be granted with or without pay at the direction of the mayor. Special leave with pay may be used for occasions such as jury duty, military leave, death, natural catastrophe in an employee's family requiring the employee's presence, and time granted for attendance at the job related professional meetings.

Special leave without pay may be granted for a period not to exceed ninety (90) calendar days within a twelve (12) month period for temporary sickness, maternity, disability, or for other good and sufficient reason which are considered uncontrollable. Such leave shall require the prior approval of the mayor. An employee on special leave without pay shall not accrue sick leave or annual leave credit.

This provision shall not be construed to eliminate other possible needs for special leave. Special leave will not be chargeable to either sick leave or annual leave. Every application for special leave must be accompanied by a complete explanation of the reason for absence.

(6) Military leave. Any regular employee who has completed six (6) months of satisfactory employment, and who enters the Armed Forces of the United States will be placed on military leave. The mayor shall approve military

leave without pay when the employee presents his/her official orders. The employee must apply for reinstatement within ninety (90) days after release from active military duty.

The employee will be reinstated to a position in the current classification plan at least equivalent to his/her former position. His/her salary will be the salary provided under the position classification and compensation plan prevailing at the time of reinstatement or reemployment for the position to which he/she is assigned.

If no position is available at the time of the employee's return, the employee will be reinstated to the first available position. One (1) current full-time employee will be terminated or laid-off to allow for reinstatement.

(7) Military reserve duty leave. Any regular employee who is a member of the United States Army Reserve, Naval Reserve, Air Force Reserve, Marine Reserve or any of the Armed Forces of the United States will be granted military leave for any field training or active duty required (excluding extended active duty). Such compensation for such leave will be paid pursuant to Tennessee Code Annotated, § 9-33-109.

(8) Jury service leave. Employees selected for jury service shall be excused from their assigned duties for the actual duration of the jury duty. In the event of release from jury duty during the employee's normal working hours, he/she shall be expected to return to his/her department. An employee will receive full pay from the city during jury service, and any money received by the employee for jury duty shall be given to the city recorder for deposit in the payroll account.

(9) Educational leave. An educational leave of absence with or without pay may be granted to an employee not to exceed twelve (12) consecutive months. This leave must be approved by the board of mayor and aldermen. A request shall be submitted in writing, stating the reason for the leave, the date the leave will begin, and the probable date of return.

(10) Maternity/paternity leave. An employee, who has been a full-time employee for at least twelve (12) months with the City of Erin and who gives at least three (3) months advance notice of their anticipated date of departure, length of maternity/paternity leave and intentions to return to full-time employment, may be granted maternity/paternity leave for a period not to exceed four (4) consecutive months for the purpose of pregnancy, childbirth, and/or the nursing of the infant. Accumulated sick leave may be used for maternity/paternity purposes; otherwise, the employee will be granted a leave of absence without pay. An employee desiring maternity/paternity leave shall notify their supervisor so a temporary replacement may be secured. Return to duty of an employee on maternity leave must be accompanied by a release statement from the employee's attending physician.

(11) Funeral leave. Full-time employees shall be allowed three (3) days of leave with pay for the death in an employee's immediate family (i.e. spouse,

parents, children, sisters, brothers, in-laws and grandparents). One (1) day of leave with pay will be allowed for the death of relatives not mentioned above.

(12) Family medical leave policy. The family and medical leave policy is applicable to both male and female employees who have worked at least twelve (12) months for the City of Erin and who have worked at least one thousand two hundred fifty (1,250) hours during the preceding twelve (12) month period.

An eligible employee may take up to twelve (12) weeks of leave, using a combination of paid and unpaid leave, in a twelve (12) month period for the birth and care of a child or the placement or care of a child for adoption or foster care. Leave may also be taken to care for the employee, a child, spouse, or a parent who has a serious health condition. The right to take leave applies equally to male and female employees who are eligible.

An expectant mother may take unpaid family and medical leave upon the birth of the child, or prior to the child's birth, for necessary medical care and if her condition renders her unable to work. Similarly, adoption or foster care leave may be taken upon the placement of the child. Leave may begin prior to the placement if absence from work is required for the placement to proceed.

An employee may take leave, either paid or unpaid, to care for a parent or spouse of any age who, because of a serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or parent of any age who is unable to care for his/her own basic hygiene, nutritional needs, or safety.

An eligible employee who is unable to perform the functions of his/her position because of a serious health condition may request up to twelve (12) weeks of paid or unpaid leave. The term "serious health condition" is intended to cover conditions or illnesses that affect the employee's health to the extent that he/she must be absent from work for treatment or recovery on a recurring basis or for more than a few days.

Eligible employees requesting medical leave due to their own illness or injury shall use any accumulated sick leave, annual leave, or holidays prior to beginning unpaid leave. The combination of annual leave, holidays, sick leave, and unpaid leave may not exceed twelve (12) weeks. During periods of unpaid leave, an employee will not accrue any additional seniority or similar employment benefits.

If spouses are both employed by the City of Erin and wish to take leave for the care of a new child or a sick parent, their aggregate leave is limited to twelve (12) weeks.

(a) Right to return to work. Leave under this policy does not constitute a qualifying event that entitles an employee to COBRA insurance coverage. However, a qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work. Upon the occurrence of such a COBRA

qualifying event the employee ceases to be entitled to leave under this policy.

(b) **Reduced and intermittent leave.** According to this policy, leave can be taken intermittently or on a reduced schedule when medically necessary as certified by the health care provider. The schedule must be mutually agreed upon by the employee and the City of Erin.

(c) **The twelve (12) month FMLA period.** The twelve (12) month period during which an employee is entitled to twelve (12) workweeks of FMLA leave is measured forward from the date the employee's first FMLA leave begins. An employee is entitled to twelve (12) weeks of leave during the twelve (12) month period.

(d) **Denial of FMLA leave.** If an employee fails to give timely advance notice when the need for a FMLA leave is foreseeable, the city may delay the taking of an FMLA leave until thirty (30) days after the date the employee provides notice to the city of the need for such leave.

If an employee fails to provide in a timely manner a requested medical certification to substantiate the continued need for a FMLA leave until an employee submits the certificate. If the employee does not produce the certification, the leave is not FMLA leave.

(13) **Death of an employee.** Upon the death of a full-time regular employee, his/her beneficiary shall receive his/her next due payroll check, plus an additional two (2) weeks of full pay. Further, his/her beneficiary shall be given complete assistance by the city recorder in settling pension, life and hospital insurance benefits, and all other compensation due in accordance with these policies and procedures.

(14) **Hospitalization and life insurance.** The City of Erin through a cooperative agreement with its employees shall contract for health and life insurance coverage for the benefit of its employees and their families. The city shall pay for one hundred percent (100%) of the individual employee's cost for health and life insurance, up to an amount set by the board of mayor and aldermen annually per employee. The city shall pay up to seventy percent (70%) of the total cost for family coverage. The annual cost in excess of the seventy percent (70%) shall be deducted from an employee's income in twenty-six (26) bi-weekly installments.

Full-time employees are given the option to participate in the city's health insurance plan. Employees not wishing to subscribe to the health insurance coverage plan, are classified as full time and entitled to benefits as prescribed herein may choose to opt out of the health care plan and receive a supplement to that employee's annual income as follows:

An amount equal to ten thousand dollars (\$10,000.00) for family coverage and five thousand dollars (\$5,000.00) for single coverage shall be paid to employees hired on or before July 2011. A flat rate of three thousand dollars (\$3,000.00) shall be paid to employees not subscribing to the health insurance plan that were hired after July 2011.

(15) Worker's Compensation. All injuries arising out of and in the course of an individual's employment with the City of Erin shall be governed by the Tennessee Worker's Compensation Law. Employees on occupational disability leave due to an on-the-job injury will not be charged sick leave or annual leave during the period of convalescence. The employee shall continue to accrue sick leave and annual leave at the employee's regular rate while he/she is on occupational disability or injury leave.

Employees shall report immediately any injury incurred in the course of their employment, however minor, to their supervisor and take such first aid or medical treatment as necessary. Any employee determined to have been able, but who fails, to make such a report shall not be eligible for occupational disability or injury leave.

When an employee is injured on the job, the city recorder shall immediately submit an accident report to the city's insurance carrier and retain a copy in the OSHA file. Where an accident causes serious bodily injury or death to an employee, the supervisor shall immediately notify the city recorder.

(16) Retirement. After six (6) months employment with the City of Erin, full-time employees will be enrolled in the Tennessee Consolidated Retirement System. The program is designed to supplement social security upon retirement. The city provides a matching contribution of the employee's earnable compensation. (1974 Code, § 1-805, as replaced by Ord. #618, June 2019 *Ch9\_6-8-21*)

**4-206. Miscellaneous policies.** (1) Solicitation. The city believes that its employees should not be exposed to frequent solicitations for charitable purposes; therefore solicitation shall be limited to as few visits as necessary during the course of the year.

(2) Personal telephone calls. The use of the office telephone during regular work hour for local and/or long distance calls of a personal nature, except in emergency cases, is discouraged.

(3) Political activity. NOTE: Nothing in this section is intended to prohibit any municipal government employee from privately expressing his/her political views or from casting his/her vote in all elections.

(a) In elections for municipal offices. No municipal government employee, whether on or off duty, whether in or out of uniform, and whether on or off city property, shall at any time or any place:

- Become a candidate for or campaign for an elective office of the city;
- Directly or indirectly solicit, receive, collect, handle, disburse, or account for assessments, contributions, or other funds for a candidate for a city office;
- Organize, sell tickets to, promote, or actively participate in a fund-raising activity of a candidate for a city office;

- Take an active part in managing the political campaign for a candidate for a city office;
- Solicit votes in support of or in opposition to a candidate for a city office;
- Act as a clerk, watcher, challenger, or similar officer at the polls on behalf of a candidate for a city office;
- Drive voters to the polls on behalf of a candidate for a city office;
- Endorse or oppose a candidate for a city office in a political advertisement, broadcast, campaign literature, or similar material;
- Address a rally or similar gathering of the supporters of opponents of a candidate for a city office;
- Initiate or circulate a nominating petition for a candidate for a city office; and/or
- Wear campaign buttons, pins, hats, or other similar attachment, or distribute campaign literature in supporting or opposing a candidate for a city office.

(b) In all other elections for public office. City employees are entitled to seek election to offices that are not a part of the City of Erin. Employees may not campaign in any way for candidates for any public office while on duty for The City of Erin. (NOTE: Tennessee Code Annotated, § 38-8-350, prohibits law enforcement officers from engaging in political activities, supporting or opposing any candidate, party, or measure in any election when on duty or acting in such officer's official capacity.)

(4) Personnel records. Personnel records for each employee are kept on file and maintained by the payroll clerk. Any change of address, telephone number, marital status, draft status, number of dependents, or education completed should be turned in to an employee's supervisor for transmittal to the payroll clerk.

The payroll clerk also maintains the life insurance, vacation, pension and retirement, health insurance, and sick leave records for each employee. The payroll clerk will advise employees through their supervisor of their eligibility so that they may take full advantage of all the benefits available.

(5) Statement of understanding. Each employee shall sign a statement that he/she has read and understands the Personnel Policy of the City of Erin. Said statement is to be placed in the employee's personnel file.

(6) Morning and afternoon break. All employees shall have a fifteen (15) minute break in the morning and a fifteen (15) minute break in the afternoon. All outside employees shall take their morning break and their afternoon break at times scheduled by the department head.

If a break time occurs and the employee is on a job site, that break shall be taken at that job site. If an employee is involved with and/or working on an

emergency situation during the scheduled break time(s), then that break time(s) shall be rescheduled with the employee's supervisor.

(7) Fighting, horseplay, damaging municipal government property. Fighting, horseplay, and intentionally defacing or damaging city property is not permitted. Employees engaging in these activities will be subject to disciplinary action up to and including discharge.

(8) Garnishment. An employee who is garnished for more than one (1) indebtedness within a twelve (12) month period may be subject to disciplinary action in accordance with the following schedule:

First Offense	Oral reprimand.
Second Offense	Written reprimand.
Third Offense	May be discharged in accordance with the discipline and dismissal policy.

(9) Trip approval. All out of city meetings, in-service training, conventions and etc. which are to be attended by employees of the city shall give notification to the city recorder and receive prior written approval by the mayor. Failure to receive said prior written approval can result in loss of pay for that amount of time expended on the trip and/or loss of expense reimbursement.

(10) Trip reimbursement. All trips that involve reimbursement and/or municipal government expense shall not be undertaken without prior notification to the city recorder and prior written approval of the mayor. Mileage shall be reimbursed at the current "state rate" for mileage. Food reimbursement shall be at a rate set by the board of mayor and aldermen. Any additional expense shall be approved by the mayor.

(11) Use of city vehicles and equipment. All city vehicles and equipment are for official use only. Drivers and/or operators shall have a valid Tennessee Driver's License and be approved by their supervisor and the mayor.

(12) Sexual harassment policy. The definition of "sexual harassment" includes conduct by men toward women, conduct by men toward men, conduct by women toward men, and conduct by women toward women. Consequently, this policy applies to all officers and employees of the City of Erin, including, but not limited to, full- and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel policies and procedures or regulation of the municipal government, and employees working under contract for the municipality.

(a) Definition. Sexual harassment or un-welcomed sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises in return for submission of sexual favors; making inappropriate sex-oriented stories; displaying sexually explicit pornographic material, no matter how it is displayed; or sexual assault on the job by supervisors,

fellow employees, or on occasion, non-employees when any of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracts, or unreasonably interferes with work performance is an unlawful employment practice and is absolutely prohibited by the municipal government.

(b) Making sexual harassment complaints. The municipality may be held liable for the actions of all employees with regard to sexual harassment, and therefore will not tolerate the sexual harassment of, or by, any of its employees. The city will take immediate, positive steps to stop it when it occurs.

By law, the city is responsible for acts of sexual harassment in the work-place where the city (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the city took immediate and appropriated corrective action. The municipality may also be responsible for the acts of non-employees, with respect to the sexual harassment of employees in the work-place, where the municipal government (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

Prevention is the best tool for the elimination of sexual harassment. Therefore, the following rules shall be strictly enforced. An employee who feels he/she is being subjected to sexual harassment should immediately contact one (1) of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

- (i) The employee's immediate supervisor.
- (ii) The employee's department head.
- (iii) The city's recorder.
- (iv) The mayor.

Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of sexual harassment. Regardless to which of the above persons the employee makes a complaint of sexual harassment, the employee should be prepared to provide the following information:

- (i) Official's or employee's name, department, and position title.
- (ii) The name of the person or persons committing the sexual harassment, including their titles, if known.
- (iii) The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment.
- (iv) Witnesses to the harassment.

(v) Whether the employee has previously reported the harassment and, if so, when and to whom.

(c) Reporting and investigating of sexual harassment complaints. The mayor is the person designated by the municipal government to be the investigator of complaints of sexual harassment against employees. In the event the sexual harassment complaint is against the mayor, the investigator shall be the city attorney.

When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the mayor, or to the board of mayor and aldermen in the case of a complaint against the mayor.

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contact in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

Upon conclusion of the investigation, the investigator shall prepare a report of the findings. The report shall include the written statement for the person complaining of sexual harassment, the written statement of witnesses, the written statement of the person against whom the complaint of sexual harassment was made, and all the investigator's notes connected to the investigation.

(d) Action on complaints of sexual harassment. Based upon the report, the mayor or the board of mayor and aldermen, the case of the mayor shall, within a reasonable time, determine whether the conduct of the person against whom a complaint of harassment has been made constitutes sexual harassment. In making that determination, they shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining. The determination of whether sexual harassment occurred will be made on a case-by-case basis.

If the mayor, or the board of mayor and aldermen, determine that the complaint of harassment is founded, they shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment, consistent with their authority under the municipal charter, ordinances or rules governing their authority to discipline employees. If the mayor feels that disciplinary action stronger than he/she is authorized to impose by the charter, ordinances, resolutions or rules governing employee discipline is warranted, he/she shall make that determination known to the Board of Mayor and Aldermen of the City of

Erin, together with the report of the investigation. If the board of mayor and aldermen determine that the complaint of sexual harassment was founded, it may discipline the employee consistent with its authority under the municipal charter, ordinances, resolutions or rules governing employee discipline.

The disciplinary action shall be consistent with the nature and severity of the offense, the rank of employee, and any other factors the mayor or board of mayor and aldermen believes relate to fair and efficient administration of the municipal government, including, but not limited to, the effect of the offense not the employee morale and public perception of the offense, and the light in which it casts the municipality. The disciplinary action may include demotion, suspension, dismissal, warning, or reprimand. A determination of the level of disciplinary action shall also be made on a case-by-case basis.

A written record of disciplinary actions taken shall be kept, including verbal reprimands. In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint of sexual harassment, witnesses or any other person connected with the investigation of the complaint of sexual harassment.

In cases where the sexual harassment is committed by a non-employee against a municipal government employee in the work-place, the mayor shall take whatever lawful action against the non-employee is necessary to bring the sexual harassment to an immediate end.

(e) **Obligation of employee.** An employee is not only encouraged to report instances of sexual harassment; they are obligated to report them. Employees are also obligated to cooperate with every investigation of harassment. The obligation includes, but is not necessarily limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully making written reports or verbally answering questions when required to do so by an investigator. Employees are also obligated to refrain from making bad faith accusations of sexual harassment.

Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.

(13) Narcotics and intoxicating liquors. (a) Purpose of drug testing program - notice.

(i) The City of Erin has a legal responsibility and management obligation to ensure a safe work environment, as well as a paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to

perform their assigned duties. Employees must be free from drug or alcohol dependence, illegal drug use, or drug/alcohol abuse.

(ii) The city and its employees may be subject to liabilities if the city fails to address and ensure that employees can perform their duties without endangering themselves or the public.

(iii) There is sufficient evidence to conclude that the use of illegal drugs/alcohol; drug/ alcohol dependence and drug/alcohol abuse seriously impair an employee's performance and general physical and mental health. The illegal possession and use of drugs, alcohol and/or narcotics by employees of the municipality is a crime in this jurisdiction and clearly unacceptable.

Therefore, the City of Erin has adopted this written policy to ensure an employee's fitness for duty as a condition of employment; to ensure drug tests are ordered as the result of reasonable suspicion by supervisory personnel and based on observed behavior or work performance; and to notify employees that testing is a requirement of employment.

In order to educate employees about the dangers of drug and/or alcohol abuse, the city shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work, and personal life; the city's policy regarding drugs and/or alcohol; and the availability of counseling. The mayor has been designated as the municipal official responsible for answering questions regarding this policy and its implementations.

(b) General rules. (i) Municipal government employees shall not take or be under the influence of any narcotics or dangerous substance unless prescribed by the employee's licensed physician. Employees who are required to take prescription medicine and/or over-the-counter medications shall notify his/her immediate supervisors of the medication prescribed and the nature of the illness of injury before the employee goes on duty.

(ii) Municipal government employees are prohibited from the use, manufacture, distribution, unauthorized possession, and sale of illegal drugs at any time, or any other controlled substance; and alcohol while on duty on municipal government property or in the city vehicles.

(iii) All property belonging to the municipality is subject to inspection at any time without notice as there is not expectation of privacy.

(A) Property includes, but is not limited to, vehicles desks, containers, files and storage lockers.

(B) Employees assigned lockers (that are locked by the employee) are also subject to inspection by the employee's supervisor after reasonable advance notice (unless waived by the mayor) and in the presence of the employee.

(iv) Municipal government employees who have reason to believe another employee is illegally using drugs or narcotics shall report the facts and circumstances immediately to the supervisor.

(v) Any employee convicted of violating a criminal drug statute shall inform his/her department head of such conviction (including pleas of guilty and nolo contendere) within five (5) days of the conviction occurring. Failure to inform the city subjects the employee to disciplinary action up to and including termination for the first offense. Conviction could result in termination.

(vi) Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or an employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for termination.

(vii) Use of alcohol within eight (8) hours prior to reporting for duty on a scheduled work day or use of alcohol while on-call for duty subjects the employee to disciplinary action up to and including termination.

(viii) Use of alcohol or drugs within eight (8) hours following an accident/incident if the employee's involvement has not been discounted as a contributing factor in the accident/incident or until the employee has successfully completed drug and/or alcohol testing procedures subjects the employee to disciplinary action up to and including termination for the first offence.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties.

(c) Prior notice of testing policy. The municipal government shall provide written notice of its drug and alcohol testing policy to all employees and job applicants. The notice shall contain the following information:

The need for drug and alcohol testing:

- (i) The circumstances under which testing may be required;
- (ii) The procedures for confirming an initial positive test result;
- (iii) The consequences of a confirmed positive test result;
- (iv) The consequences of refusing to undergo a drug and alcohol test;
- (v) The right to explain a positive test result and the appeal procedures available; and
- (vi) The availability of drug abuse counseling and referral services.

(d) Consent. Before a drug and/or alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, Medical Review Officer (MRO), and the mayor or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug testing policy and to indicate current or recent use of prescription or over-the-counter medication.

The consent form shall also set forth the following information:

- (i) The procedure for confirming an initial positive test result;
- (ii) The consequences of a confirmed positive test result;
- (iii) The right to explain a confirmed positive test result and the appeal procedures available; and
- (iv) The consequences of refusing to undergo a drug and alcohol test.

The consent form also provides authorization for certified or licensed medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system.

(e) Drugs to be tested for. When drug and alcohol screening is required under the provisions of this policy, a urinalysis test will be given to detect the presence of drugs. The selection of drugs to be tested for will be based upon known abuse in the community and the ability of each drug to affect job performance. All drug results will be reported to the Medical Review Officer (MRO). If verified by the MRO, they will be reported to the mayor.

The city may test for any additional substances listed under the Tennessee Drug Control Act of 1989.

(f) Job applicant testing: general standard. Applicants for all classes of employments with the city will be required to undergo a drug and alcohol test after a conditional offer of employment and prior to their final appointment.

(g) Current employee testing: general standard. All employees of the city shall have mandatory drug testing at least once every calendar year, all other employees involved with the public's safety are subject to random drug testing.

The municipal government may require a current city employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during working hours. "Reasonable suspicion" means an articulate belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Circumstances that constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

- (i) A pattern of abnormal or erratic behavior;
- (ii) Information provided by a reliable and credible source;
- (iii) A work-related accident;
- (iv) Direct observation of drug or alcohol use; or
- (v) Presence of the physical symptoms of drug or alcohol use (i.e. glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and or reflexes).

Supervisors are required to detail in writing the specific facts, symptoms, or observations that formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the appropriate department head or designated alternate.

(h) Refusal to consent: applicant. A job applicant who refuses to consent to a drug and alcohol test will be denied employment with the city.

(i) Refusal to consent: employees. An employee who refuses to consent to a drug and alcohol test when reasonable suspicion of drug or alcohol use has been identified is subject to disciplinary action up to and including termination. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action. Refusing to submit to an alcohol or drug test means that an employee:

- (i) Fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing in accordance with the provisions of this policy;
- (ii) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with this policy; or
- (iii) Engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technician

shall provide a written statement to the city indicating a refusal to test.

(j) Types of drug and alcohol tests. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug and/or alcohol testing under six (6) separate conditions:

(i) Pre-employment. All applicants for employee status who have received a conditional offer of employment with the City of Erin must take a drug and alcohol test before receiving a final offer of employment.

(ii) Transfer. Employees transferring to a safety sensitive position or a position that requires a CDL license shall undergo drug and alcohol testing.

(iii) Post-accident/post-incident testing. Following any workplace accident/incident determined by supervisory personnel of the city to have resulted in significant property or environmental damage or in significant personal injury, including, but not limited to, a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident/incident or cannot be discounted as a contributing factor to the accident/incident and who is reasonable suspected of possible drug or alcohol use as determined during a routine post-accident/post-incident investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident/incident drug and/or alcohol test.

Post-accident/post-incident testing shall be carried out within two (2) hours following the accident/incident.

(A) Post-accident/post-incident testing for ambulatory employees. Following all workplace accidents/incidents where drug or alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the city to the designated testing site for a breath alcohol test and/or a drug test within two (2) hours following the accident. In the event of an accident/incident occurring after regular work hours, the employee(s) will be taken to the designated test site within two (2) hours. No employee shall consume alcohol prior to completing the post-accident/post-incident testing procedures.

(B) Post-accident/post-incident testing for injured employees. An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care

following a significant accident/incident shall consent to the obtaining of specimens for drug and/or alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the Medical Review Officer (MRO) of the city appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol and/or drugs (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the city of upon hiring following the implementation date.

Post-accident/post-incident breath alcohol and/or urinary testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take, and have analyzed, appropriated specimens to determine if alcohol and/or drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident/post incident testing within two (2) hours must be fully documented by the attending medical personnel.

(iv) Testing based on reasonable suspicion. Drug and/or alcohol testing is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol or drugs.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol and/or drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol and/or drug use. One (1) supervisor who has received alcohol detection and/or drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the city making a determination to subject any employee to alcohol and/or drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the mayor within eight (8) hours of the decision to test and before the results of the tests are received by the department.

(v) Random testing. All employees of the city may be subject to random testing for controlled substances and alcohol. Random testing will be done on a percentage basis in a fair and

equitable manner. Selection of employees for random testing will be done by a computer based random generator that is matched with an employee's Social Security number.

A minimum of fifteen (15) minutes and a maximum of two (2) hours will be allowed between notification of an employee's selection for random testing and the actual presentation for testing. Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others might not be tested at all, depending on the random selection.

If an employee is unavailable (i.e. vacation, sick day, out of town, work-related causes, etc.) to be tested on the date random testing occurs, the city may omit that employee from that random testing or await the employee's return to work.

(vi) Return-to-duty and follow-up. Any employee of the city who has violated the prohibited drug and alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to sixty (60) months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee with a CDL returning from leave or special assignment in excess of six (6) months. In this situation, the employee will not be required to pay for the testing.

(k) Drug testing collection procedures. Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the city to a drug test collection facility selected by the City of Erin, where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the city to perform the analysis on collected urine samples.

(l) Drug testing laboratory standards and procedures. All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS) (see Appendix C).

As specified earlier, in the event of an accident/incident occurring after regular work hours, the supervisor or designated personnel shall

take the employee(s) to the specified testing site within twenty-four (24) hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two (2) bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has seventy-two (72) hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the mayor.

(m) Alcohol testing procedures. All breath alcohol testing conducted for the city shall be performed using Evidential Breath Testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA). (NOTE: The city's own public safety department cannot do this testing unless the test is required because of a traffic accident/incident.)

Alcohol testing is to be performed by a qualified technician as follows:

(i) Step One: An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent the Breath Alcohol Level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

(ii) Step Two: Fifteen (15) minutes shall be allowed to pass following the completion of Step One above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall ensure that the evidential breath testing device registers 0.00 on an air blank, if the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then Step One shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 percent or greater, the employee shall be

considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the city up to, and including, termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of twenty-four (24) hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of 0.00 percent before returning to duty with the city.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the city, when possible.

The completed breath alcohol test form shall be submitted to the mayor and city recorder.

(n) Education and training. Supervisory personnel who will determine reasonable suspicion testing. Supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will attend annual training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use.

(o) Consequences of a confirming positive test result.

(i) Applicants. If an applicant's positive test result has been confirmed, the applicant will be denied employment with the City of Erin.

(ii) Current employees. If a current employee's positive test result has been confirmed, the employee is subject to immediate removal from any safety sensitive function, and the employee is subject to disciplinary action up to and including termination. Factors to be considered in determining the appropriated disciplinary response include the employee's work history, length of employment, current job performance, and existence of past disciplinary actions.

(p) The right to a hearing. If an employee's positive test results have been confirmed, the employee is entitled to a hearing before any disciplinary action may be taken by the municipality. The employee must make a written request for a hearing to the appropriated department head or designated alternate within seven (7) days of receipt by the employee of the confirmation of the test results. Employees may be represented by legal counsel, present evidence and witnesses on their behalf, and confront and cross-examine the evidence and witnesses used against them.

No adverse personnel action may be taken against an employee based on a confirmed positive test result unless the hearing officer finds by a preponderance of the evidence that:

- (i) The employee's supervisor had reasonable suspicion to believe that the employee was under the influence of drugs or alcohol while on the job; and
- (ii) The employee's drug test results are accurate.

Within seven (7) days following the close of the hearing, the hearing officer shall issue a written decision and a brief summary of the facts and evidence supporting that decision.

(q) Voluntary disclosure of drug and/or alcohol use; employee assistance program referral. In the event that an employee of the City of Erin is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with their respective department head in private. Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

No disciplinary action may be taken against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through a program sanctioned by the municipality, and thereafter refrain from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not prohibit disciplinary action for the violation of city personnel policy and regulations, nor will it relieve the employee of any requirements for return to duty testing.

Affected employees of the City of Erin may be allowed up to thirty (30) consecutive calendar days for initial substance abuse treatment as follows:

- (i) The employee must use all vacation, sick and compensatory time available.
- (ii) In the event accumulated vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of thirty (30) consecutive calendar days, the employee will be provided unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum thirty (30) day treatment period.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the Substance Abuse Professional (SAP) of the City of Erin. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirement. The respective department head and the mayor will consider each case

individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City of Erin. Voluntary disclosure provisions do not apply to applicants.

(r) **Reporting and reviewing.** The city shall designate a Medical Review Officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders (see Appendix C).

(i) The laboratory shall report test results only to the designated MRO, who will review them in accordance with the accepted guidelines and the procedures adopted by the city.

(ii) Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.

(iii) The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the mayor, and the employee.

(iv) Neither the City of Erin, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney. (1974 Code, § 1-806, as replaced by Ord. #618, June 2019 *Ch9\_6-8-21*)

**4-207. Separation and disciplinary actions.** (1) Types of separations. All separations of employees from positions with the municipal government shall be designated as one (1) of the following types and shall be accomplished in the manner indicated: resignation, lay-offs, disability, death, retirement, and dismissal. At the time of separation and prior to final payment, all records, assets, and other items of city property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation.

(2) Resignation. In the event an employee decides to leave the municipal government's employ, a two (2) week written notice shall be given to his/her supervisor so that arrangements for a replacement can be made. In such a case employees will be expected to return any or all municipal government

equipment assigned. An unauthorized absence from work for a period of three (3) consecutive working days may be considered by the department head as a resignation.

(3) Lay-off. The mayor may lay off an employee in the municipal government service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or other material changes in the duties or organization of the employee's position, or for related reasons that are outside the employer's control and that do not reflect discredit upon the service of the employee.

The duties performed by an employee laid-off may be assigned to other employees already working who hold a similar position in the appropriate class. Temporary employees shall be laid-off prior to the lay-off of probationary or regularly employees. The order of layoff shall be in reverse order to total continuous time served upon the date established for the lay-off to become effective.

(4) Disability. An employee may be separated for disability when he/she cannot perform the essential functions of the job because of physical or mental impairment that cannot be accommodated without undue hardship or because the disability poses a direct threat to the health and safety of others. A reasonable accommodation may include transfer to a comparable position for which the individual is qualified. Action may be initiated by the employee or the municipality, but in all cases, it must be supported by medical evidence acceptable to the council, and the disability must prevent the employee from performing the essential functions of the job. The city may require an examination at its expense to be performed by a licensed physician of its choice.

When a request for an accommodation is denied, a disabled employee may also file a grievance in accordance with this policy or the grievance procedures adopted pursuant to the ADA. Employees will be treated fairly in all respects. Those who feel they have been subjected to unfair treatment have the right to present their grievance to the proper person for prompt consideration and a fair decision. The employee may present his/her case or a representative of his /her choosing and expense may present it.

(5) Death. Separation shall be effective as of the date of death of an employee. All compensation due in accordance with these policies and procedures shall be paid to the estate of the employee, except for such sums as by the law must be paid to the surviving beneficiary.

(6) Disciplinary action. Whenever an employee's performance, attitude, work habits or personal conduct fall below a desirable level, supervisors shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instance, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends

on the seriousness of the incident and the whole pattern of the employee's past performances and conduct. The types of disciplinary action are:

- (a) Oral warning.
- (b) Written reprimand.
- (c) Suspension.
- (d) Dismissal.

(7) Oral warning. Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating further disciplinary actions. Documentation regarding the issuance of an oral warning shall be placed in the employee's personnel file.

(8) Written reprimand. In situations where an oral reprimand has not resulted in the expected improvement or when more severe initial action is warranted, a written reprimand may be sent to the employee. The supervisor administering the written reprimand shall confer with and advise the employee that the action is a written reprimand and emphasize the seriousness of the problem; cite previous corrective actions and/or informal discussions relating to the offense; identify the problem and/or explain the offense; inform the employee of the consequences of continued undesirable behavior; detail corrective actions and identify dates by which the corrective actions shall be taken. The employee shall be asked to sign.

(9) Suspension. An employee may be suspended with or without pay, or at a reduced pay rate by the mayor, until the next regular meeting of the board of mayor and aldermen, at which time it shall be the duty of the board to take all final action relative to any continued suspension or other disciplinary actions.

(10) Dismissal. The mayor may dismiss an employee. Reasons for dismissal may include, but shall not be limited to: misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records, violation of any of the provisions of the charter, ordinance, or these policies and procedures.

If the employee requests a hearing on the proposed action, the mayor shall promptly set a date and time for the hearing before the board of mayor and aldermen. The decision of the board of mayor and aldermen shall be final.

(11) At-will employment. The City of Erin is an "at will" employer. This means employees can be terminated at any time, with or without cause, for any reason, with or without advance notice. Tennessee is an at will employment state, therefore, employees of the City of Erin have no rights to continued employment with the city. Employees may be dismissed for cause, for no cause, for any cause as long as it does not violate federal and state law.

(12) Grievance procedures. A "grievance" is defined as an employee's feeling of dissatisfaction; any difference disagreements or dispute arising

between an employee and his/her supervisor and/or employer with regard to some aspect of his/her employment, application or interpretation of regulations and policies, or some management decision affecting the employee. A grievance can be something real, alleged, or a misunderstanding concerning policies and procedures or an administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, transfer, layoff, recall and any other related items.

Employee(s) who have a complaint or grievance may discuss the grievance with their immediate supervisor, a higher-level supervisor, and/or their department head. Every employee may present a grievance under the provisions of this procedure free from fear, interference, restraint, discrimination, coercion or reprisal.

Steps of the grievance procedure are as follows:

(a) Step One: The employee makes an oral or written presentation of the grievance to his/her immediate supervisor. It shall be the supervisor's responsibility to promptly consider the grievance and take appropriate action. The supervisor shall inform the employee of the decision and any action taken shall be within seventy-two (72) hours if appropriated and if the supervisor has the authority. The supervisor shall prepare a written report of the grievance and provide a copy of it to the department head. Any supervisor in the chain of command shall attach his/her recommendation regarding the un-resolved grievance if it proceeds to a higher level. No supervisor may hold a grievance longer than seventy-two (72) hours without forwarding it to the next supervisory level.

(b) Step Two: If the grievance cannot be resolved on an informal basis between the employee and supervisor, the employee may proceed to the second procedural step. Before proceeding an employee must put the grievance in writing and request that the written statement be delivered to the mayor. If an employee wishes a hearing, the mayor will accommodate the employee. Upon hearing the grievance the mayor must provide a written response to the employee within seventy-two (72) hours of the hearing.

(c) Step Three: If the grievance is not resolved with the mayor, the employee may request in writing a hearing with the board of mayor and aldermen. The board of mayor and aldermen shall have fourteen (14) calendar days to schedule the hearing after which, the board of mayor and aldermen shall provide a written response to the employee with copies to the mayor and the employee's immediate supervisor. Every attempt will be made to resolve the employee's grievance.

(13) Appeals process. Any city employee reprimanded, suspended, or dismissed may submit to the mayor a request to have the action reviewed by the board of mayor and council. An employee must submit the request for an appeal within ten (10) calendar days of receipt of notification of the disciplinary action

and must also state his/her intent to have representation and name the representatives. The board of mayor and aldermen shall schedule a hearing within fourteen (14) days of the receipt of the employee's request for appeal. The action of the board of mayor and aldermen shall be final and binding on all parties involved unless appealed to the chancery court by the employee. (1974 Code, § 1-807, as replaced by Ord. #618, June 2019 *Ch9\_6-8-21*)

**4-208. Amendment of personnel rules.** (1) Amendments. Amendments or revisions of these policies and procedures may be recommended for adoption by the mayor. Such amendments or revisions of these policies and procedures shall become effective after approval by ordinance of the board of mayor and aldermen.

(2) Severability. Each section, subsection, paragraph, sentence and clause of these policies and procedures document is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence or clause shall not affect the validity of any other portion of these policies and procedures, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted.

(3) Special note. These personnel policies and procedures are believed to be written within the framework of the Charter of the City of Erin but in case of conflict, the charter takes precedence. (1974 Code, § 1-808, as replaced by Ord. #618, June 2019 *Ch9\_6-8-21*)

**4-209. Appendices.** (1) Cell phone use policy. The purpose of this policy is to offer guidance in the use and application of the City of Erin owned phones.

(a) Authorization. Recommendations for the issuance of the City of Erin owned mobile phones should be approved by the mayor. The use of a City of Erin owned phone is considered a privilege and may be revoked. Regular landline phones may be provided to employees as is appropriate for their position.

Both landlines and mobile phones will be assigned by need and not every employee will have a unique landline and/or mobile phone assigned to them. Each case for a phone will be reviewed individually; the location, the business requirements, safety issues and appropriateness will all be taken into consideration when evaluating the need for a new phone.

(b) Use. (i) Business use. Any phone owned and issued by the City of Erin shall have, as its primary function, business related uses. When an employee is in travel status, they are encouraged to use their mobile phone, if service is available. Employees should cross-reference the phone use requirements referenced in the city travel policy.

(ii) Personal use. This policy acknowledges that, from time to time, a City of Erin issued phone may be used for personal

calls. As long as this use of phone is incidental to its primary business use personal calls are allowed.

If a situation occurs that warrants personal use of a City of Erin owned phone, beyond an incidental nature, the individual shall reimburse the city, as appropriate. Should it be determined that an individual is abusing the privilege of using a City of Erin owned phone, the phone may be taken from the employee and/or the employee disciplined. Depending on the severity of the abuse, the city's progressive discipline policy shall apply.

City employees are not allowed to use their personal phones during designated work hours unless specifically permitted by their department head. Personal calls during designated work hours may not be taken at any time when it may disrupt the employee's assignment task/work and/or may compromise the safety of the employee other employees, or the general public.

(iii) Prohibited use. Phones issued by the City of Erin shall not be used to harass or threaten any individual. Typically, city phones may not be used for personal long distance or fee services. However in an emergency situation, the expense for any such use shall be reimbursed to the city as soon as possible. When practical, the employee must seek approval from their supervisor.

(iv) Driving. The City of Erin encourages the safe use of phones when operating any vehicle or piece of machinery. Drivers using cell phones may pull off the road into a safe area until the call is terminated. If available, hands free devices may be used to conduct calls while driving.

(v) Meetings. Any individual using a City of Erin mobile phone shall use good judgment in how and where the phone is used. Phones taken into meetings shall be turned off or to vibrate. If a call is taken during a meeting, every effort should be made not to disrupt the meeting. Unless a call is specifically related to the topic of discussion, talking on the phone in a meeting is strongly discouraged.

(c) Phone records. Every individual City of Erin owned mobile phone user is responsible for checking the accuracy of their bill before it is processed for payment. Discrepancies in billing data shall be resolved in a timely manner. Landline calls incurring fees shall be assigned to the appropriated departmental budget code.

(i) If a city phone is used for personal long distance or fee services, the supervisor must be notified and the city reimbursed.

(ii) Other. The nature of the technology required to support the wireless mobile telephone is rapidly evolving. Phones may have additional features such as cameras, text messaging, Internet access, etc. The intent of this policy is to apply the

principles enumerated herein to any such add-on or accessory feature.

(d) Recordings. Employees that use devices to record telephone conversations shall do so only in a manner consistent with the status of such applicable local, state and federal laws.

(2) Internet and electronic mail use policy. (a) It is the policy of the City of Erin that all employees having global Internet access and e-mail privileges shall use such access only for official work in full compliance with this policy and the policies of the city. Each user must be aware of the risks related to Internet access and e-mail which cannot be eliminated but may only be managed through the exercise of prudence and caution.

(b) No e-mail messages sent or received on city computers is personal or private; each is the property of the City of Erin. E-mail messages can be copied, distributed, discovered in litigation and used in disciplinary proceedings even if deleted by the recipient. Users have no expectation of privacy as to any e-mail message at any time.

(c) Principles of acceptable internet and computer system use.

(i) Use must be for legitimate work-related purposes only.

(ii) Users shall respect the legal protections afforded by copyright and license laws for programs and data.

(iii) Users shall identify themselves as employees of their department and the city when sending any e-mail message via the Internet.

(d) Unacceptable use of the Internet, e-mail, and the city's computer system.

(i) Users shall respect the integrity of the city's computing system and shall not use it for unacceptable purposes or in an unacceptable manner as described below. It is unacceptable for a user to use, submit, publish, display, or transmit on the Internet, or any part of the city's computer system, any information which:

(A) Uses the system for any illegal purpose;

(B) Contains defamatory, false, inaccurate, abusive, obscene, pornographic, profane, sexually oriented, threatening, racially offensive, or otherwise biased, discriminatory, or illegal material, whether in the form of a "joke" or otherwise;

(C) Violates or infringes on the rights of any other person, including the right to privacy; or

(D) Modify files or data belonging to other users without explicit permission to do so.

(ii) No user, other than the mayor or the various department directors, shall have authority to subscribe to any service for which a fee is charged.

(iii) Users shall not use or develop programs that harass other users or infiltrate a computer or computing system, or which seek to alter or damage the software components of a computer or computing system.

(e) Personal use. The provisions in this policy shall also not be construed to prohibit infrequent and brief use of the system for incidental personal matters by an employee during a meal or other personal break time. This is similar to an employee's limited ability to make a personal telephone call on personal time. For example, an employee may spend a minute or two (2) looking at the weather radar online; provided, however, in no event shall any such limited personal use include any activity otherwise prohibited by this policy, e.g., visiting a sexually explicit site.

(f) No right of privacy - monitoring.

(i) Pursuant to the Electronic Communications Act of 1986 U.S.C. §§ 2510 et seq., notice is hereby given that there are no facilities provided by the city and its system for sending or receiving private or confidential electronic communications.

(ii) Electronic mail, whether sent via the Internet or internally may be a public record subject to public disclosure under the Tennessee Public Records Law and may be inspected by the public (Tennessee Code Annotated, § 10-7-512). (as added by Ord. #618, June 2019 *Ch9\_6-8-21*)

**4-210. Repeal of ordinances.** All ordinances or parts of ordinances in conflict herewith are hereby repealed. (as added by Ord. #618, June 2019 *Ch9\_6-8-21*)

## CHAPTER 3

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM<sup>1</sup>

#### SECTION

- 4-301. Title.
- 4-302. Purpose.
- 4-303. Coverage.
- 4-304. Standards authorized.
- 4-305. Variances from standards authorized.
- 4-306. Administration.
- 4-307. Funding the program.

**4-301. Title.** This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Erin. (1974 Code, § 1-1101, as replaced by Ord. #630, Jan. 2021 *Ch9\_6-8-21*)

**4-302. Purpose.** The City of Erin in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

- (1) Provide a safe and healthful place and condition of employment that includes:
  - (a) Top management commitment and employee involvement;
  - (b) Continually analyze the worksite to identify all hazards and potential hazards;
  - (c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and
  - (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

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<sup>1</sup>The Occupational Safety and Health Program Plan for the City of Erin, including all Appendices, is included in this municipal code as Appendix A.

(5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

(6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program plan, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (1974 Code, § 1-1102, as replaced by Ord. #630, Jan. 2021 *Ch9\_6-8-21*)

**4-303. Coverage.** The provisions of the occupational safety and health program plan for the employees of the City of Erin shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1974 Code, § 1-1103, as replaced by Ord. #630, Jan. 2021 *Ch9\_6-8-21*)

**4-304. Standards authorized.** The occupational safety and health standards adopted by the City of Erin are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (as added by Ord. #540, Feb. 2004 and replaced by Ord. #630, Jan. 2021 *Ch9\_6-8-21*)

**4-305. Variances from standards authorized.** Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (as added by Ord. #540, Feb. 2004 and replaced by Ord. #630, Jan. 2021 *Ch9\_6-8-21*)

**4-306. Administration.** For the purposes of this chapter, the city recorder or designee is designated as the safety director of occupational safety

and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions For the Public Sector, chapter 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (as added by Ord. #540, Feb. 2004 and replaced by Ord. #630, Jan. 2021 **Ch9\_6-8-21**)

**4-307. Funding the program.** Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Erin Board of Mayor and Aldermen. (as added by Ord. #540, Feb. 2004 and replaced by Ord. #630, Jan. 2021 **Ch9\_6-8-21**)

## CHAPTER 4

**COMPLIANCE MANUAL REGARDING TITLE IV OF  
THE CIVIL RIGHTS ACT OF 1962**

4-401. The Civil Rights Act of 1962.

4-402. Policy statement.

**4-401. The Civil Rights Act of 1962.** The Compliance Manual Regarding Title VI of the Civil Rights Act of 1962 is adopted in its entirety by reference as if set out fully herein.<sup>1</sup> (as added by Ord. #545, Feb. 2006)

**4-402. Policy statement.** It is the policy of the City of Erin to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. (as added by Ord. #545, Feb. 2006)

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<sup>1</sup>Ord. #545, Feb. 2006, of record in the office of the city recorder, contains the Compliance Manual Regarding Title VI of the Civil Rights Act of 1962.

## CHAPTER 5

### TRAVEL REIMBURSEMENT REGULATIONS

#### SECTION

- 4-501. Purpose.
- 4-502. Enforcement.
- 4-503. Travel policy.
- 4-504. Travel reimbursement rate schedules.
- 4-505. Administrative procedures.

**4-501. Purpose.** The purpose of this chapter and referenced regulations is to bring the city into compliance with Tennessee Code Annotated, § 6-54-901 to 6-54-907. This law requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law." To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (as added by Ord. #549, June 2007)

**4-502. Enforcement.** The mayor of the city or the treasurer shall be responsible for the enforcement of these travel regulations. (as added by Ord. #549, June 2007)

**4-503. Travel policy.** (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the mayor.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses. Travel advance requests are not considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the mayor to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form and upon approval of the mayor or the treasurer. Meeting agenda is required.

(5) The travel expense reimbursement form will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be

(a) Directly related to the conduct of the city business for which travel was authorized; and

(b) Actual, reasonable, and necessary under the circumstances.

The mayor may make exceptions for unusual circumstances.

Expenses considered excessive will not be allowed.

(7) Claims for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the city are not ordinarily considered eligible expenses for reimbursement. (as added by Ord. #549, June 2007)

**4-504. Travel reimbursement rate schedules.** Authorized travelers shall be reimbursed according to the city travel regulation rates. The city's travel reimbursement rates will be established and changed as necessary.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (as added by Ord. #549, June 2007)

**4-505. Administrative procedures.** The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee. A copy of the administrative procedures is on file in the office of the city recorder. (as added by Ord. #549, June 2007)