

**IN THE COUNTY COMMISSION OF
UPSHUR COUNTY, WEST VIRGINIA**

INDEPENDENT CONTRACTOR AFFIDAVIT

Upshur County requires that a contractor performing improvements or construction on a building within its jurisdiction to obtain the requisite building permit from the County. A contractor seeking to obtain a building permit from Upshur County shall present a copy of that contractor's West Virginia contractor's license, a copy of that contractor's certificate of insurance, and a copy of that contractor's proof of workers' compensation insurance.

West Virginia Code § 23-1-1 *et. seq.* mandates that an employer provide a West Virginia workers' compensation policy to cover certain employees described in Chapter 23 and the rules promulgated thereunder. With very limited exception, every employer shall obtain West Virginia workers' compensation coverage for the protection of its employees.

All individuals performing services for compensation paid by an employer are presumed to be employees and required to be covered by a West Virginia workers' compensation insurance policy unless and until it is shown that the worker is an independent contractor. *The burden of proving that an individual is an independent contractor is at all times, on the party asserting independent contractor status.*

In light of the foregoing, I, _____,
do hereby swear or affirm, under penalty of perjury, that **I am an independent contractor because I can satisfy all the following requirements:** (Please initial beside each section)

_____ 1. **The individual holds himself or herself out to be in business for himself or herself;**

_____ 2. **The individual has control over the time when the work is being performed, and the individual's work schedule is not dictated by the person or entity for whom the work is performed.** This criterion does not prohibit the person or entity for whom the work is performed from reaching agreement with the individual as to completion schedule, range of work hours, and maximum number of work hours to be provided by the individual, and, in the case of entertainment, the time such entertainment is to be presented;

_____ 3. **The individual has control and discretion over the means and manner of performance of the work being performed and in achieving the result of the work.** In other words, the individual is not being supervised by the person or entity for whom the work is performed on an ongoing basis, but rather, the individual is given a description and expectation of the work to be performed at the outset of the retention of the individuals' services and then is expected to perform the services contracted for without any ongoing supervision. The mere fact that a person or entity for whom the work is being performed checks on the status of the work from time to time, or otherwise monitors the work being performed for the purposes of legal compliance with federal or state laws related to safety does not constitute supervision on an ongoing basis;

_____ 4. Unless expressly required by law, **the individual is not required to work exclusively for the person or entity for whom the work is performed; and**

_____ 5. **If the use of equipment is required to perform the work, the individual provides most significant equipment required to perform the job.**

I, _____, do hereby swear or affirm, under penalty of perjury, that I am an independent contractor because I satisfy all of the foregoing requirements.

Signature

Date

STATE OF _____

COUNTY OF _____, to wit:

Taken, subscribed, and sworn to before me this _____ day of _____, 2019.

My commission expires: _____

Notary Public