

TITLE 4**MUNICIPAL PERSONNEL****CHAPTER**

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CHAPTER 1**SOCIAL SECURITY****SECTION**

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4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the City of Henderson, Tennessee, to extend at the earliest date, to the employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1976 Code, § 1-701)

4-102. Necessary agreements to be executed. The Mayor of the City of Henderson, Tennessee, 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. (1976 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

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. (1976 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. (1976 Code, § 1-704)

4-105. Records and reports. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1976 Code, § 1-705)

4-106. Exclusions. There is hereby 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.

There is hereby excluded from this chapter any authority to make any agreement with respect to emergency and fee based positions and elective officials engaged in rendering legislative, executive and judicial services, or any employee or official not authorized to be covered by applicable federal or state laws or regulations. Acting under § 4-102 hereinabove contained, the mayor is hereby directed to amend the social security agreement with the State of Tennessee, so as to extend the benefits of the system of Federal Old Age and Survivors Insurance to include emergency and fee based positions and elective officials engaged in rendering legislative, executive and judicial services as of April 1, 1962.

The mayor is authorized and directed to execute an amendment to said agreement to exclude from coverage under the Federal System of Old Age, Survivors, Disability, Health Insurance, the services of an election worker and an election official if the remuneration paid for such services in a calendar year is less than \$1,000 on or after January 1, 1995, ending on or before December 31, 1999 and, the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any calendar year, commencing on or after January 1, 2000, with respect to services performed during any such calendar year. This exclusion to be effective in and after a calendar year in which a state's modification is mailed, or delivered by other means to the appropriate federal official. (1976 Code, § 1-706, as amended by Ord. #288, June 1995)

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4-201. Property rights/continued employment. Nothing contained herein shall grant, intend to grant or infer property rights and/or imply permanent or continued employment with the City of Henderson. (1976 Code, § 1-801, as replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-202. Definitions. As used in this chapter the following words and terms shall have the meanings listed.

(1) "Absence without leave." An absence from duty which was not authorized or approved.

(2) "Applicant." An individual who has applied in writing on an application form or resume for employment.

(3) "Appointment." The offer to and acceptance by a person of a position either on a regular or temporary basis.

(4) "Compensatory leave." Time off from work in lieu of monetary payment for overtime worked.

(5) "Demotion." Assignment of an employee from one (1) position to another which has a lower maximum rate of pay and/or rank.

(6) "Department." The primary organizational unit which is under the immediate charge of a department head who reports directly to the mayor and governing body.

(7) "Department head." Any individual having authority over a primary organizational unit, who on the behalf of the municipality has the authority to hire, assign, direct, discipline and dismiss other employees. The exercise of such authority should not be mere routine or clerical in nature, but should require the use of independent judgment.

(8) "Disciplinary action." Action which may be taken when an employee fails to follow rules outlined in any city policy.

(9) "Dismissal." A type of disciplinary action which separates an employee from employment with the city.

(10) "Employee." An individual who is legally employed and is compensated through the payroll.

(11) "Full-time employees." Individuals who are scheduled to work the equivalent of forty (40) hours or more per week and fifty-two (52) weeks a year.

(12) "Grievance." A dispute arising between an employee and supervisor relative to some aspect of employment, interpretation of regulations and policies, or some management decision affecting the employee.

(13) "Immediate family." Spouse, children, step children, brother, step brother, sister, step sister, parent, step parents, mother and father-in-law, grandparents, grandchildren and step grandchildren.

(14) "Lay-off." The involuntary non disciplinary separation of an employee from a position because of shortage of work, materials, or funds.

(15) "Leave." An approved type of absence from work as provided for by this chapter.

(16) "Maternity leave." An absence due to pregnancy, childbirth, or related medical conditions which shall be treated the same as sick leave.

(17) "Occupational disability or injury leave." An excused absence from duty because of an injury or illness sustained in the course of employment and determined to be compensable under the provisions of the Worker's Compensation Law.

(18) "Overtime." Authorized time worked by an employee in excess of normal working hours or work period.

(19) "Overtime pay." Compensation paid to an employee for overtime work performed in accordance with this chapter.

(20) "Probationary period." The designated period of time after an applicant is appointed or an employee is promoted or transferred in which the employee is required to demonstrate fitness for the position by actual performance.

(21) "Promotion." Assignment of an employee from one (1) position to another which has a higher maximum rate of pay and/or rank.

(22) "Reprimand." A type of disciplinary action, oral or written, denoting a violation of personnel regulations which becomes part of the employee's personnel record.

(23) "Seniority." Length of service as a full-time employee of the city.

(24) "Sick leave." An absence approved by the department head or supervisor due to non-occupational illness or injury or general family/bereavement leave.

(25) "Suspension." An enforced leave of absence for disciplinary purposes or pending investigation of charges made against an employee.

(26) "Temporary employee." An employee holding a position other than permanent, which is of a temporary, seasonal, casual, or emergency nature.

(27) "Transfer." Assignment of an employee from one (1) department to another department.

(28) "Unauthorized absence." Any absence from work, for any scheduled day or partial day without prior approval of the department head.

(29) "Work day" or "work period." Scheduled number of hours an employee is scheduled to work per day or per scheduled number of days. (1976 Code, § 1-802, as replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-203. Coverage. These rules shall apply to all city employees, both full-time and part-time, unless otherwise specifically provided, except employees specifically exempt. Those exempt shall include the following:

(1) All elected officials and persons appointed to fill vacancies in elective offices.

(2) All members of appointive boards, commissions, or committees.

(3) City attorney.

(4) Consultants, advisors, and counsel rendering temporary professional services.

(5) Independent contractors.

(6) Temporary employees who are hired to meet the immediate requirements of an emergency condition.

(7) Seasonal employees who are employed for not more than three (3) months during the fiscal year. (1976 Code, § 1-803, as replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-204. Recruitment. Individuals shall be recruited from a wide geographic area to assure obtaining well-qualified applicants for the various types of positions. In cases where residents of the city and non-residents are equally qualified for a position, the resident shall receive first consideration.

The department head may prescribe minimum qualifications as required by the nature of the work to be performed. Such requirements shall be made clearly stated a job description which shall be made available to all potential applicants.

The department head may reject any applicant after determining: that the application was not timely filed or was not filed on the prescribed form; that the applicant does not possess the minimum qualifications; that the applicant has established an unsatisfactory employment or personnel record (as evidence by reference check) of such a nature as to demonstrate unsuitability for employment; that the applicant is afflicted with any mental or physical disease or defect that would prevent satisfactory performance of duties; that the applicant is addicted to the habitual use of drugs or intoxicants; that the applicant does not reply to a mail or telephone inquiry; that the applicant fails to accept appointment within the time prescribed in the offer; that the applicant was previously employed and was removed for cause or resigned not in good standing or any other good and significant reason(s). (as added by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-205. Residence requirements. The following residence requirements are required within one (1) year from the employment date.

The city recorder, chief of police, fire chief, utility director, public works director, building and zoning official or any other department head shall be residents of the city or shall reside within a five (5) mile radius of city hall and inside Chester County within one (1) year from the date of employment. He/she shall maintain residence in the required area during their employment.

All full time city employees of the fire department (except the fire chief) shall reside within a ten (10) mile radius of city hall within one (1) year from the date of employment and maintain residence within this area during their employment.

All other full time city employees not listed above shall reside within a fifteen (15) mile radius of city hall or within Chester County within one (1) year from the date of employment and maintain residence within this area during their employment.

The residence requirement for part time employees will be determined on a case by case basis by the department head taking into account the needs of the department and the requirements of the position. (1976 Code, § 1-804, as renumbered by Ord. #356, Dec. 2000, replaced by Ord. #365, Nov. 2001, amended by Ord. #369, Aug. 2002, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-206. Nepotism. No two (2) or more members of the same immediate family shall be employed by the same city department. No immediate family of the mayor or city board members shall be hired in any department of the city while they are in office. Immediate family members of the mayor, the board members, or firemen may serve as volunteer firemen. (1976 Code, § 1-805, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-207. Promotions. (1) Vacancies in positions above entrance level shall be filled by promotion whenever in the judgment of the department head and the mayor it is in the best interest of the department to do so. If the mayor does not agree with the department head's candidate for promotion, the matter may be appealed to the board of aldermen for a final decision. When vacancies in positions above entrance level occur, the department head shall notify all employees within the department and give them an opportunity to apply. Promotions shall be on a competitive basis and shall give appropriate consideration to the applicants' performance, qualifications and seniority. Examinations as allowed by § 4-209 may be used as part of the process to determine the most suitable candidate for a position. Employees who are promoted to a new position or rank will be subject to a new probationary period.

(2) **Temporary promotions.** The department head or mayor may make temporary promotions when it is required for the continued operation of the

department. Temporary promotions that result in a temporary increase in pay may be made only under the following rules:

(a) The position being filled must be a supervisory position. For the purpose of this section only, supervisory positions shall include: police chief, assistant police chief, fire chief, assistant/deputy fire chief, public works director, assistant public works director, utility director, assistant utility director, building and zoning official and city recorder.

(b) The absence of the supervisor must be for a period in excess of ninety (90) consecutive days.

(c) The department head or mayor may approve a temporary pay increase in an amount up to the pay of the supervisor being replaced, taking into account the duties, experience and existing starting and top pay scales. The pay increase shall take effect on the 91st day of the leave and shall be decreased to the previous level of pay immediately upon the return of the supervisor. (1976 Code, § 1-806, as renumbered by Ord. #356, Dec. 2000, replaced by Ord. #365, Nov. 2001, amended by Ord. #398, Oct. 2004, and replaced by Ord. #436, Nov. 2008, and Ord. #529, March 2020 ***Ch3_08-12-21***)

4-208. Transfers. City employees shall be given the opportunity to transfer from one (1) department to another department when a vacancy occurs. In cases where present city employees and new applicants are equally qualified for a position, the city employee shall receive first consideration. Volunteer firemen are considered city employees under this section only if the vacancy is in the fire department. Employees who are transferred to a different department or position will be subject to a new probationary period. (1976 Code, § 1-807, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 ***Ch3_08-12-21***)

4-209. Employment examinations. All appointments may be subject to competitive examination. All examinations shall fairly and impartially test those matters relative to the capacity and fitness of the applicant to discharge efficiently the duties of the positions to be filled. Examinations may consist of one (1) or more of the following types: a written test of required knowledge; an oral interview; a performance test of manual skills; a physical test of strength, agility, and fitness; a written test of mental ability; an evaluation of training and experience. (1976 Code, § 1-808, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 ***Ch3_08-12-21***)

4-210. Post-offer physical examinations and pre-employment drug/alcohol testing. Applicants for positions, prior to their appointment, will be required to undergo a post-offer physical examination and to undergo pre-employment drug test to determine physical and mental fitness to perform

work in the position to which appointment is to be made. Applicants may also be required to submit to an alcohol test prior to employment. Physical examinations and drug/alcohol testing will be performed at no cost to the applicant. Failure to pass a physical examination or drug/alcohol test will make an applicant ineligible for employment with the city if he/she is unable to perform the essential job functions of the position. Drug/alcohol testing will be performed and determination of results will be completed under the city's substance abuse program. (1976 Code, § 1-809, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-211. Hiring of city employees. The department head, with the approval of the mayor, shall have the power to fill vacancies in the city workforce. The department head shall recommend compensation within the pay scale for the position and said compensation shall be approved by the mayor. If the mayor does not agree with the department head's candidate or compensation, the department head may appeal to the board of aldermen for a final decision. All vacancies that are not filled by promotion shall be publicly advertised in a newspaper of general circulation and on the city website.

Only the board of alderman has the authority to increase the size of the city number of total employees in each department, the number of each rank or level within each department and the pay range or scale for each rank or level. (1976 Code, § 1-810, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, Ord. #436, Nov. 2008, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-212. Emergency appointments. In an emergency, the mayor may authorize the appointment of any person to a position to prevent stoppage of public business or loss or serious inconvenience to the public. Emergency appointments shall be limited to a period not to exceed thirty (30) days in any twelve (12) month period. (1976 Code, § 1-811, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-213. Drivers license requirement. Many city employees must drive city vehicles to perform their duties. You must maintain a valid Tennessee drivers license if this is required by your job description. You must notify your department head immediately if you have had changes to your driving privileges or upon your release from confinement if you have been arrested for DUI. (1976 Code, § 1-812, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-214. Notice of arrest. City employees are held to higher standard than the general public. Any city employee that is arrested or indicted on any

charge must notify his/her department head prior to reporting back to work or within eight (8) hours of being released from confinement whichever is less. Any employee's arrest will be reviewed on a case by case basis taking into account the charges and the employee's position with the city. The department head shall make a determination if the employee will be able to return to work or remain on leave until the matter is resolved. (1976 Code, § 1-813, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-215. Probationary period. The probationary period for all regular appointments (except for the non-certified police officers that must attend the training academy) including promotional appointments and transfers, shall be for a period of six (6) months. An additional probationary period of up to three (3) months may be requested in writing by the department head. A copy of the written request for extension shall be given to the probationary employee and a copy shall be filed with the city recorder.

The probationary period for non-certified police officers that must attend the training academy, including promotional appointments and transfers, shall be for a period of twelve (12) months.

The employee's supervisor will tell the employee, during the probationary period, when performance is not satisfactory and is not meeting departmental requirements. At least five (5) days prior to the expiration of an employee's probationary period, the department head shall notify the mayor if the service of the employee has been unsatisfactory, and the department head's recommendation for demotion or release from employment. Said recommendation shall be filed with the mayor and the city recorder. Successful completion of the probationary period does not confirm a property right in the position as stated in § 4-201. (1976 Code, § 1-814, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-216. Attendance. An employee shall be in attendance at regular work in accordance with this chapter and with general department regulations. When an employee is unable to attend work, he/she must notify his/her department head or acting department head as early as possible prior to the beginning of the scheduled work day or shift. In an emergency situation, the employee shall notify his/her department head or acting department head within thirty (30) minutes of the beginning of the scheduled work day or shift.

Unauthorized absence from work for a period of two (2) consecutive work days or one shift day may be considered by the department head as a resignation.

All departments shall keep daily attendance records of their employees. When an employee is absent from work for any reason, the respective department head shall complete a leave report stating; the type of leave, the

amount of time off from work and reason for the absence, so the official leave records may be updated. (1976 Code, § 1-815, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, Ord. #436, Nov. 2008, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-217. Hours of work. The governing body shall establish hours of work per week for each position, based on the needs for service, and taking into account the reasonable needs of the public that may be required to do business with various departments. (1976 Code, § 1-816, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-218. Overtime. Overtime may be authorized by prior approval of the department head. Department heads have the authority to require any employee in his/her department to work extra time as needed to cover shifts, duties or workload. Failure of employees to work extra time as required may be grounds for disciplinary action. Department heads are not eligible to receive any overtime pay.

The work period for the police department (except administrative staff) shall be eighty (80) hours in a fourteen (14) day period. The work period for the fire department (except administrative staff) shall be two-hundred twelve (212) hours in a twenty-eight (28) day period. The work period for all remaining employees shall be forty (40) hours in a seven (7) day period.

All employees, except department heads, required to work overtime shall be paid on the basis of one and one-half (1 1/2) times the hours worked, except for the employees of the fire department. Employees of the fire department that are required to work extra time will be paid based on the minimum regulations of the Fair Labor Standards Act.

All employees called in for overtime when not on duty shall be guaranteed pay for a minimum of one (1) hour. Firemen are guaranteed a minimum of two (2) hours for responding to any emergency fire call when not on duty. No employee, including department heads, will be eligible to receive compensatory time (comp. time). Department heads will not allow any employee to build up compensatory leave or allow any employee to work without being paid for the said work time. (1976 Code, § 1-817, as renumbered by Ord. #356, Dec. 2000, amended by Ord. #360, June 2001, replaced by Ord. #365, Nov. 2001, amended by Ord. #378, June 2003, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-219. Medical, dental and vision insurance. All full-time employees of the city shall be offered group health insurance provided by the city, if financially feasible. The city provides a set dollar amount (adjusted annually) for each employee to use toward the cost of health insurance coverage. Depending on the plan selected by the employee and the cost of the plans, the city funds will pay for a large portion or all of the individual employee's

coverage. Any remaining amount can be used by the employee for dependent coverage under the city's plan. Any premium amount not covered by the city will be deducted from the employee thru a payroll deduction.

Dental and vision insurance is offered to full time employees and officers and their dependents but the cost of this coverage shall be paid by the employee thru a payroll deduction. Insurance will become effective within sixty (60) days from date of employment. Insurance coverage will be of the type and form approved by a majority of the board of mayor and aldermen. (1976 Code, § 1-818, as renumbered by Ord. #356, Dec. 2000, amended by Ord. #360, June 2001, replaced by Ord. #365, Nov. 2001, amended by Ord. #418, Dec. 2006, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-220. Retirement plans. Tennessee Consolidated Retirement System (TCRS): The City has a TCRS defined benefit plan. A portion of the plan is paid for by the city. It is a condition of employment that all full-time employees who have attained six (6) months of continuous employment participate in the TCRS Plan. Employees must contribute five percent (5%) of their wages towards their TCRS retirement. Employees are one hundred percent (100%) vested at five (5) years and are eligible for retirement benefits.

401(k)/457 Retirement Plans: The City of Henderson recognizes the importance of saving for retirement and offers eligible employees an opportunity to participate in the 401(k) and/or the 457 Retirement plans. This is another way to save for retirement thru payroll deduction. The city does not match any employee contributions to the 401(k)/457 plans. (1976 Code, § 1-819, as renumbered by Ord. #356, Dec. 2000, amended by Ord. #360, June 2001, and replaced by Ord. #365, Nov. 2001, Ord. #476, June 2013, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-221. Holidays. All full-time officers and full-time employees shall be given eleven (11) paid holidays each year. These shall be New Years Day, Martin Luther King Jr.'s Birthday, President's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, the Friday after Thanksgiving, Christmas Eve and Christmas Day. When a holiday falls on a Saturday or Sunday, the preceding Friday, or the following Monday shall be observed as a holiday. Due to the necessity of coverage in some departments, some employees will be on duty during a holiday and can either select another day, subject to the approval of the department head, or receive extra pay for the time worked. If another day is selected, it will have to be selected and taken by the end of the next twelve (12) month period following the holiday.

For all full time employee positions except the fire department, a holiday shall be equal to eight (8) hours. Employees of the fire department who work a twenty-four (24) hour shift on a holiday shall be eligible to receive double pay for the twenty-four (24) hours worked or can select another twenty-four (24) hour shift day off subject to the approval of the fire chief. Employees of the fire

department who do not work a holiday shall either receive pay for a twelve (12) hour holiday or select another day in which said employee shall take off twelve (12) hours for the said holiday, subject to the approval of the fire chief. If another day is selected, it will have to be selected and taken by the end of the next twelve (12) month period following the holiday. (1976 Code, § 1-820, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-222. Vacation leave. All full-time officers and full-time employees who have been continuously employed for one (1) year or longer shall be credited with earned vacation leave in accordance with the following schedule:

<u>Completed Service</u>	<u>Vacation Credit Per Year</u>
After 1 year	40 hours
After 3 years	80 hours
After 10 years	120 hours
After 15 years	160 hours
After 20 years	200 hours

For employees of the fire department the schedule shall be as follows:

<u>Completed Service</u>	<u>Vacation Credit Per Year</u>
After 1 year	48 hours
After 3 years	96 hours
After 10 years	144 hours
After 15 years	192 hours
After 20 years	240 hours

The above schedule and credits are for uninterrupted service computed from the most recent date of continuous employment. New employees shall not be eligible for vacation until they have worked one (1) full year. An employee will not earn any vacation leave for a portion of year that is not fully completed until his/her anniversary date of employment. Vacation leave shall be taken as earned subject to the approval of the department head or acting department head, who shall schedule vacations so as to meet the operational requirements of the department. Department heads should notify and schedule their annual leave with the mayor. Employees may accrue vacation leave to a maximum of three hundred twenty (320) hours for regular employees and four hundred thirty-two (432) hours for the fire department.

If any employee exceeds this maximum, the number of hours in excess of the maximum will automatically be transferred when they are accrued to sick leave and shall be used according to the regulations of § 4-223 unless this excess leave is sold per the rules outlined in the following paragraph. The city will not pay for vacation hours earned but not taken except as outlined in the following paragraph or to an employee who has voluntarily or involuntarily terminated their employment with the city. No terminating employee's accrued hours shall exceed the maximum allowed.

The city will allow an employee to sell unused vacation days under the following rules:

(1) An employee must maintain a minimum of one hundred sixty (160) hours (one hundred ninety two (192) hours in the fire department) of vacation leave.

(2) An employee is only allowed to sell a maximum of eighty (80) hours (ninety six (96) in the fire department) in any budget (fiscal) year.

(3) An employee must use a minimum of forty (40) hours vacation each year in order to be eligible to sell any vacation.

(4) Any vacation sold must be in full day increments (eight (8) hours) for regular employees or half (1/2) shift day (twelve (12) hours) for the fire department.

(5) When an employee exceeds the maximum accrual of vacation, said employee must decide whether to roll the excess to sick leave or to designate the excess to be sold.

(6) The city will pay any employee for unused vacation leave they wish to sell under this policy only twice per calendar year on approximately April 1st and October 1st.

An employee may transfer/donate vacation leave to another city employee under the following rules. The receiving employee must have used all (or is expected to use all) of his/her leave time that is allowed for the absence including unpaid holidays, vacation leave and sick leave (if allowed for the absence) prior to being eligible to receive a donation of vacation leave from another employee. In order to receive a donation of vacation leave, the time away from work must qualify under the regulations of FMLA. The time donated is transferred based on the dollar value of the hours not hour for hour to take care of varied pay rates. The minimum amount of leave that can be transferred is four (4) hours. The donating employee must sign a form authorizing the transfer and should include the total hours transferred, total dollars transferred and the receiving employee. (1976 Code, § 1-821, as renumbered by Ord. #356, Dec. 2000, as replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-223. Sick leave. All full-time officers and full-time employees shall be given credit of eight (8) hours of sick leave with pay for each month of employment. Each full-time employee of the fire department shall be given credit for twelve (12) hours of sick leave pay for each month of employment. All such employees shall periodically be credited in the official records with accumulated sick leave credits in accordance with this accrual rate. Sick leave accrual shall be unlimited.

Sick leave may be taken for the following reasons: personal illness or physical incapacity resulting from causes beyond employee's control, enforced quarantine of the employee in accordance with community health regulations; to keep a doctor or dentist appointment, a death of an immediate family member

or for general family/bereavement leave. Sick leave shall not be considered as a right which an employee may use at his discretion, but rather a privilege. Claiming sick leave when physically fit, except when provided by this section, shall be grounds for discharge.

When an employee is absent due to reasons as provided above, in order to be granted sick leave with pay, he/she must meet the following conditions: notify his/her department head or acting department head prior to the beginning of the scheduled work day, or shift day, of the reason for absence; present, if required by the department head, evidence of such medical examination or nursing visit or inquiry as these officials deem advisable. A department head may require a medical certificate signed by a licensed physician certifying that the employee has been incapacitated for work for the period of absence, nature of the employee's sickness or injury, and that he is again physically able to perform his duties. For regular full-time employees, such medical certificate shall be a must for all sick leave periods in excess of two (2) consecutive work days or for any sick leave in excess of sixteen (16) hours during a calendar month. For employees of the fire department, such medical certificate shall be a must for all sick leave periods in excess of one (1) shift day or twenty-four (24) hours per calendar month. When an employee works his/her final day "physically on the job" due to planned retirement or resignation, he/she must have a medical certificate for any leave claimed as sick leave.

Limited use of sick leave for general family/bereavement leave. Any employee who maintains a minimum balance of forty (40) hours (forty eight (48) hours for the fire department) of sick leave shall be eligible to use forty (40) hours (forty-eight (48) hours for the fire department) of sick leave each calendar year for general immediate family care or bereavement purposes. At no time shall the amount of sick leave be drawn below forty (40) hours, (48 hours for the fire department) by using such general family/bereavement leave nor shall any employee be eligible for more than forty (40) hours (forty-eight (48) for the fire department) during a calendar year. General immediate family care shall include: care for sick members of the immediate family, carry an immediate family member to a doctor or dentist appointment, etc. Bereavement shall be used to attend any funeral other than immediate family members who are covered by regular sick leave. In order to be granted general family/bereavement leave with pay, an employee must meet the following conditions: notify his/her department head or acting department head prior to the beginning of the scheduled work day, or shift day, of the reason for absence and must receive approval of the department head. A department head may request documentation that the leave requested meets the requirement of general family/bereavement leave.

Sick leave may be taken as necessary, but may not be extended or overdrawn beyond the accrual at the time of the absence. An employee who is off work for sick leave, vacation, occupational disability or injury leave or an approved leave of absence for more than one hundred twenty (120) hours or one

hundred forty four (144) hours for the fire department during a calendar month will not earn a sick leave day for that month.

Employees who retire, resign or are dismissed from city employment shall not be paid for any accrued sick leave and shall lose all accrued sick leave credit. However, any employee who is vested in the retirement system and leaves employment with the city will have all accumulated or unused sick leave credited toward their retirement. (1976 Code, § 1-822, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-224. Occupational disability or injury leave. Occupational disability or injury leave shall be granted employees who sustain an injury or an illness during the course of their employment which is determined to be compensable under the provisions of the Worker's Compensation Law. Employees on occupational disability leave shall receive such benefits in lieu of pay as are provided by the Worker's Compensation Law.

Employees on occupational disability leave who have accrued sick leave may choose to receive full pay and charge such disability leave against their accrued sick leave for the first seven (7) calendar days of injury (this should equal five (5) working days for normal employees). If an employee chooses to be paid sick leave for the first seven (7) calendar days, any monies received by the employee for this time as a benefit under workmen's compensation shall be deposited in original check or draft form with the city recorder.

Beginning with the eighth (8th) day of any occupational disability or injury or when an employee chooses to immediately receive workman's compensation benefits, said employee will only be eligible to receive the benefits paid under the Tennessee Workman's Compensation Law. (1976 Code, § 1-823, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-225. Pay Raises and Cost of Living Adjustments (COLAs). The mayor and board of aldermen will conduct a review every twelve (12) months of salaries and pay scales of employees. They will also consider any COLAs based on the cost of living and budget constraints. The board of aldermen will not consider any amendments to salaries or pay scales during the budget year without extenuating circumstances. Amendments to salaries or pay scales and any COLA shall be approved by resolution and shall go into effect on the first payroll ending after July 1 of each year. (1976 Code, § 1-824, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, Ord. #436, Nov. 2008, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-226. Court service. Each police officer who is required to appear in circuit court, general sessions court, or city court, after being lawfully summoned, on his day off, will be paid for the time he is in court, not to be less

than one (1) hour per day. Officers who are not required to attend court sessions will not be paid for time in court. (1976 Code, § 1-825, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. # 365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-227. Jury duty. Any full-time employee of the city who is lawfully summoned and required to appear for jury duty, by any court of competent jurisdiction, shall receive regular city pay while serving in this capacity. (1976 Code, § 1-826, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. # 365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-228. Military leave. Any employee who is a member of any military reserve component will be allowed leave under the rules and regulations of Uniformed Services Employment and Re-employment Rights Act (USERRA) and Tennessee Code Annotated, § 8-33-109. The employee shall provide his/her department head a copy of his/her orders immediately upon notice of the leave. Failure to provide orders in a timely manner may result in disciplinary action. (1976 Code, § 1-827, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. # 365, Nov. 2001, Ord. #421, April 2007, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-229. Leave without pay. A department head may grant a full time or part time employee a leave of absence without pay for a period not to exceed eighty (80) hours (ninety six (96) hours for the fire department) during a calendar year a for good and sufficient reason(s). The department head shall take into account the needs of the department and any other leave the requesting employee may have available to use or recently had used in making his/her decision. Nothing in this section shall pertain to any leave required by state or federal law. (1976 Code, § 1-828, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. # 365, Nov. 2001, Ord. #421, April 2007, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-230. Leave records. The city recorder (or his/her office designee) shall keep for each officer and employee, an official record currently up to date at all times showing credits earned and leave taken under this chapter. Department heads shall file leave reports to the city recorder (or his/her office designee) every month. (1976 Code, § 1-829, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. # 365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-231. Discrimination prohibited. The municipality is an equal opportunity employer. Except as otherwise permitted by law, the municipality will not discharge or fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color,

religion, gender, or national origin, or because the individual is forty (40) or more year of age. The city will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training, or other terms, conditions, and privileges of employment.

Any employee or applicant who believes that he or she has been subjected to discrimination should immediately report this to his/her department head, the mayor or the city recorder. The city will handle the matter with as much confidentiality as possible. There will be no retaliation against an employee or applicant who makes a claim of discrimination or who is a witness to the discrimination.

The city will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged discrimination. In doing the investigation, the city will try to be fair to all parties involved. If the city determines that discrimination has occurred, disciplinary action will be taken. This disciplinary action may include a reprimand, demotion, discharge, or other appropriate action. The city will attempt to make the disciplinary action reflect the severity of the conduct. (1976 Code, § 1-830, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-232. Prohibitions. No person, applicant or employee shall be favored or discriminated against due to political affiliation. No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or to attempt to secure for any person an appointment to a position with the city, or any increase in wages or other advantage in employment in such a position, for the purpose of influencing the vote or political actions of any person, or for any other consideration. No person shall, directly or indirectly, give, render, pay, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment or promotion, or any advantage in a position with the city. For more Prohibitions, see chapter 6 "Code of Ethics." (1976 Code, § 1-831, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. # 365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-233. Political activity. The following prohibitions and restrictions on political activities shall apply to all city officers and employees, except for elected officials. No city officer or employee shall become a candidate for an elective city office.

No city officer or employee (other than elected officials) shall:

- (1) Become a candidate for an elective city office.
- (2) Initiate or circulate a nominating petition for any candidate for city office.

(3) Directly or indirectly solicit, receive, collect, handle, disburse, or account for assessments, contributions, or other funds for a candidate for city office.

(4) Organize or sell tickets to in a fund-raising activity of a candidate for city office.

(5) Take an active part in managing the political campaign of a candidate for city office.

(6) Act as a recorder, watcher, challenger, or similar officer at the polls on behalf of a candidate for city office.

(7) Drive voters to the polls on behalf of a candidate for city office.

(8) Endorse or oppose a candidate for city office in a political advertisement, broadcast, campaign literature or similar material.

(9) Address a rally or similar gathering of the supporters or opponents of a candidate for city office.

No city officer or employee (other than elected officials), when on duty or in uniform shall:

(1) Directly or indirectly solicit, receive, collect, handle, disburse, or account for assessments, contributions, or other funds for a candidate any elective office.

(2) Organize, sell tickets to, promote or actively participate in a fund-raising activity of a candidate for any elective office.

(3) Take an active part in managing the political campaign of a candidate for any elective office.

(4) Solicit votes in support of or in opposition to a candidate for any elective office.

(5) Act as a recorder, watcher, challenger, or similar officer at the polls on behalf of a candidate for any elective office.

(6) Drive voters to the polls on behalf of a candidate for any elective.

(7) Endorse or oppose a candidate for any elective office in a political advertisement, broadcast, campaign literature or similar material.

(8) Address a rally or similar gathering of the supporters or opponents of a candidate for any elective office.

(9) Initiate or circulate a nominating petition for a candidate for any elective office.

(10) Wear campaign buttons, pins, hats or any other similar attachment, or distribute campaign literature in support or opposition to a candidate for any elective office.

Nothing in this section is intended to prohibit any city officer or employee from privately expressing his or her political views or from casting his or her vote in all elections. (1976 Code, § 1-832, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-234. Sexual harassment policy. The City of Henderson has a strict policy against sexual harassment. Sexual harassment by any employee will not be tolerated. Sexual harassment is unwanted sexual conduct, or conduct based upon sex, by an employee's supervisor(s) or fellow employees or others at the work place that adversely affects an employee's job or job performance. Examples of conduct that may constitute sexual harassment are: sexual advances, requests for sexual favors, propositions, physical touching, sexually provocative language, sexual jokes, and display of sexually-oriented pictures or photographs.

Any employee who believes that he or she has been subjected to sexual harassment should immediately report this to his/her department head, the mayor or the city recorder. The city will handle the matter with as much confidentiality as possible. There will be no retaliation against an employee who makes a claim of sexual harassment or who is a witness to the harassment.

The city will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. In doing the investigation, the city will try to be fair to all parties involved. If the city determines that sexual harassment has occurred, disciplinary action will be taken. This disciplinary action may include a reprimand, demotion, discharge, or other appropriate action. The city will attempt to make the disciplinary action reflect the severity of the conduct.

If it is determined that no harassment has occurred or that there is not sufficient evidence that harassment occurred, this will be communicated to the employee who made the complaint, along with the reasons for this determination. (1976 Code, § 1-833, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-235. Strikes and unions. No full-time employee or full-time officer shall participate in any strike against the city, nor shall he join, be a member, or solicit any other officer or employee to join any labor union which authorizes the use of strikes by government employees. (1976 Code, § 1-834, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-236. Outside employment. No full-time employee or officer may engage in additional employment outside the official hours of duty unless approved by the mayor in writing. Any outside employment is secondary to the city employment and shall not conflict with duties assigned by the city including overtime and extra shifts. (1976 Code, § 1-835, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-237. Grievance procedure. When any grievance comes to or is directed to the attention of any department head, he/she shall discuss within two working days all relevant circumstances with the employee and remove the causes of the grievances to the extent the department head deems advisable and possesses authority. Failing resolution at this level, the grievance shall be referred to the mayor for resolution. Failing resolution at this level the employment hearing board shall hold a hearing on the said grievance and make a final determination. The decision of the employment hearing board is final. (1976 Code, § 1-836, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-238. Disciplinary action. Whenever employee performance, attitude, work habits, or personal conduct fall below a desirable level or any justified reason, any of the following steps may be taken depending on the severity of the offense:

- (1) Reprimand (oral or written),
- (2) Suspension,
- (3) Demotion or
- (4) Dismissal. (1976 Code, § 1-837, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-239. Reprimands. Whenever employee performance, attitude, work habits, or personal conduct fall below a desirable level or any other justified reason, department heads shall inform employees promptly and specifically of such lapses and shall give them counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In situations where an oral warning has not resulted in the expected improvement, or when more severe initial action is warranted, a written reprimand may be sent to the employee by certified mail or given to the employee personally by his/her department head. If written reprimand is personally given to the employee, said employee shall sign a statement that he has received and read the reprimand, but his signature does not necessarily mean the employee agrees with what the reprimand states. A copy of the reprimand shall be placed in the employee's personnel folder. (Ord. #294, March 1996, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-240. Suspensions. Whenever employee performance, attitude, work habits, or personal conduct fall below a desirable level or any other justified reason, he/she may be suspended without pay by his/her department head, not to exceed a total of thirty (30) days in any twelve (12) month period. A written statement of the reason for suspension shall be submitted to the employee affected at the time the suspension becomes effective. A copy of the statement

shall be filed with the city recorder. A suspension may be appealed under the rules outlined in § 4-243. In special cases, an employee may be suspended by a majority of the city board of mayor and aldermen, in which case no hearing is required or allowed. Employees may be suspended without pay for a longer period pending an investigation or hearing of any charges against them. An employee determined by the board of mayor and aldermen to be innocent of all charges shall be returned to duty with full pay for the period of suspension. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 **Ch3_08-12-21**)

4-241. Demotions. A department head with written approval of the mayor may demote any employee of his/her department. Reasons for demotion may include, but shall not be limited to: because the position is being abolished and the employee would otherwise be laid off; there is a lack of funds; the employee does not possess the necessary qualifications to render satisfactory service in the position, misconduct, negligence, incompetency, insubordination, unauthorized absence, falsification of records, poor attitude or performance, unsuitable personal conduct, violation of any of the provisions of the charter, municipal code, or departmental policy, the employee voluntarily requests demotion or any other justified reason. A demotion may be appealed under the rules outlined in § 4-243. In special cases, as employee may be demoted by a majority of the city board of mayor and aldermen, in which case no hearing is required or allowed. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 **Ch3_08-12-21**)

4-242. Dismissal. A department head shall have the authority to dismiss any employee in his or her department for just reason(s). Reasons for dismissal may include, but shall not be limited to: misconduct, negligence, incompetency, insubordination, unauthorized absence, falsification of records, poor attitude or performance, unsuitable personal conduct, violation of any of the provisions of the charter, municipal code, or departmental policy, or any other justified reason. In special cases, a majority of the board of mayor and aldermen may dismiss an employee.

The dismissed employee shall be furnished with a written notice, signed by his or her department head containing the reason(s) for the dismissal and his or her right to request a hearing under the rules outlined in § 4-243. This written notice shall be supplied to the employee directly or mailed by certified mail to his last known address within seven (7) calendar days after the dismissal. Copies of this written notice shall be filed with the mayor and the city recorder upon its completion.

If the dismissed employee does not request a hearing, no further action is needed and the department head's action is final. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 **Ch3_08-12-21**)

4-243. Right to a hearing. If an employee requests a hearing before the Employment Hearing Board, he or she shall make the request in writing and said request must be received by the city recorder no more than ten (10) calendar days after the date of suspension, demotion or the written notice of dismissal. If requested, the hearing shall be held as soon as possible after proper notice is given to the members, the employee and witnesses.

None of the hearing rules in this section shall pertain to the suspension, demotion, dismissal of the city attorney, city recorder, police chief, fire chief, public works director, utility director, building and zoning official or any other department head due to the fact that the people in these positions serve at the pleasure of the board of aldermen and only a majority of the full board can make final decisions pertaining to their employment. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-244. City employment hearing board. The city employment hearing board shall consist of the police chief, the fire chief, the utility director, the public works director, the building and zoning official and one (1) randomly selected member of the board of aldermen. The city recorder (and/or his/her designee) shall attend all hearings to take minutes of the meeting. The hearing board shall meet as necessary to deal with employee requests for a hearing when allowed by the personnel policy. Meetings of the hearing board are not open to the public and only persons that are involved such as attorneys, witnesses or persons having personal knowledge of the matter to be brought before the hearing board for the employee or the city may attend. At the hearing, the matter shall be discussed in depth and the department head of the employee, the employee and any other witnesses shall be given an opportunity to speak concerning the matter. All hearing board members will be allowed to vote concerning the matter with the exception of the department head of the employee that requested the hearing. The decision of the hearing board is final.

None of the hearing rules in this section shall pertain to the suspension, demotion, dismissal of the city attorney, city recorder, police chief, fire chief, public works director, utility director, building and zoning official or any other department head due to the fact that the people in these positions serve at the pleasure of the board of aldermen and only a majority of the full board can make final decisions pertaining to their employment. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-245. Separations. All separations of employees from positions in the workforce shall be designated as one (1) of the following types and shall be accomplished in the manner indicated: dismissal, resignation, lay-off, and disability. At the time of separation, all records, equipment, and other items of municipal property in the employee's custody shall be transferred to the department head. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-246. Resignation. An employee may resign by submitting in writing the reasons and the effective date, to his/her department head as far in advance as possible, but a minimum of a two (2) week notice is required. Unauthorized absence from work for a period of two (2) consecutive days or one (1) shift day may be considered by the department head as a resignation. Department head shall forward all notices of resignation to the city recorder immediately upon receipt. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-247. Lay-off. The department head, with written approval of the mayor, may lay-off any employee when they deem it necessary by reason of shortage of funds or work, the abolition of a position, or other material changes in the duties or organization, or for related reasons which are outside the employee's control and which do not reflect discredit upon service of the employee. Temporary employees shall be laid off prior to probationary or regular employees in the same position. The order of lay-off shall be in reverse order to total continuous time served in the effected position(s) upon the date established for the lay-off to become effective. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-248. Disability. An employee may be separated for disability when unable to perform required duties because of a physical or mental impairment. Action may be initiated by the employee or the municipality, but in all cases it must be supported by medical evidence acceptable to the board of aldermen. The municipality may require an examination at its expense and performed by a licensed physician of its choice. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-249.--4-251. Reserved for future use. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-252.--4-260. Reserved for future use. (as added by Ord. #529, March 2020 *Ch3_08-12-21*)

4-261. Amendment of personnel rules. Amendments or revisions to these rules may be recommended for adoption by any member of the board of aldermen, the mayor or the city recorder. Such amendments or revisions of these rules shall become effective upon final passage of the amending ordinance by board of aldermen. (as added by Ord. #529, March 2020 *Ch3_08-12-21*)

CHAPTER 3

SUBSTANCE ABUSE PROGRAM

SECTION

- 4-301. Purpose of the substance abuse program--notice.
- 4-302. Coverage.
- 4-303. General rules.
- 4-304. Prior notice of testing policy.
- 4-305. Job applicant testing: general standard.
- 4-306. Current employee testing: general standard.
- 4-307. Refusal to consent.
- 4-308. Confirmation of test results.
- 4-309. Consequences of confirming a positive test result.
- 4-310. The right to a hearing.
- 4-311. Confidentiality of test results.
- 4-312. Laboratory testing requirements.
- 4-313. Compliance with USDOT Part 199 by the utility department.
- 4-314 – 4-324. Reserved for future use.
- 4-325. Amendment of the substance abuse policy.

4-301. Purpose of the substance abuse program--notice. (1) The City of Henderson has a legal responsibility and management obligation to ensure a safe work environment; as well as paramount interest in protecting the public by insuring that its employees have the physical stamina and emotional stability to perform their assigned duties. A requirement for employment must be an employee who is free from drug or alcohol dependence, illegal drug use, or drug/alcohol abuse.

(2) Liability could be found against the city and the employee if the city fails to ensure that employees can perform their duties without endangering themselves or the public.

(3) There is sufficient evidence to conclude that the use of illegal drugs/alcohol, drug/alcohol dependence and drug/alcohol abuse seriously impairs 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 city is a crime in this jurisdiction and clearly unacceptable. Therefore the City of Henderson has adopted this written policy to ensure an employee's fitness for duty. (1976 Code, § 1-901, as replaced by Ord. #365, Nov. 2001)

4-302. Coverage. These rules shall apply to all city employees, both full-time and part-time, including volunteer firemen and auxiliary policemen, unless otherwise specifically provided, except employees specifically placed in exempt service. The exempt service shall include the following:

- (1) All elected officials and persons appointed to fill vacancies in elective offices.
- (2) All members of appointive boards, commissions, or committees.
- (3) City attorney.
- (4) Consultants, advisors, and counsel rendering temporary professional service.
- (5) Independent contractors.
- (6) Temporary employees who are hired to meet the immediate requirements of an emergency condition, who are employed for not more than three (3) months.
- (7) Seasonal employees who are employed for not more than three (3) months during the fiscal year.

Certain classes of employees that are placed in exempt service by this section may be required to undergo drug testing per the requirements of § 4-313. (1976 Code, § 1-902, as replaced by Ord. #365, Nov. 2001)

4-303. General rules. (1) Employee use, possession, purchase, sale or transfer of illegal drugs is strictly forbidden. Any of these acts will be grounds for immediate disciplinary action up to and including dismissal regardless of any judicial proceeding or disposition.

(2) Use of prescription drugs in the workplace is also a concern if the employee is advised by his/her physician that such medication may adversely affect their ability to perform assigned duties, thereby endangering themselves, others or city property. It is expected that employees will seek and act on advice from their physician when controlled substances are prescribed. Employees are required to advise their department head of any medication they are taking which could affect their ability to perform assigned duties safely.

(3) All property belonging to the city is subject to inspection at any time without notice as there is not expectation of privacy. Private property on city owned property may be subject to search if the city has reasonable articulable belief that said personal property may contain illegal drugs. Property includes, but is not limited to, vehicles, desks, containers, files, and storage lockers.

(4) City employees who have reason to believe another employee is illegally using drugs or narcotics, or is under the influence of alcohol, shall report the facts and circumstances immediately to his/her department head.

(5) Failure to comply with the intent or provisions of this policy may be used as grounds for disciplinary action up to and including dismissal. (1976 Code, § 1-903, as replaced by Ord. #365, Nov. 2001)

4-304. Prior notice of testing policy. The city shall provide a copy of this substance abuse policy to all city employees and each employee shall sign a statement that they have read the said policy and understood the program.

Job applicants will be supplied a copy of the policy prior to their final appointment. (1976 Code, § 1-904, as replaced by Ord. #365, Nov. 2001)

4-305. Job applicant testing: general standard. Applicants for all classes of employment, both full-time and part-time, except volunteer firemen will be required to undergo a drug and/or alcohol test upon the offer of employment and prior to their final appointment. (1976 Code, § 1-905, as replaced by Ord. #365, Nov. 2001)

4-306. Current employee testing: general standard. Although the city is concerned with its employee's privacy, its primary responsibility is to ensure the safety of its employees and the general public. Any city employee including volunteer fireman, may be required to undergo a urine and/or blood screen test if there is reasonable cause to believe that an employee is under the influence of alcohol or illegal drugs while on duty. Examples of reasonable cause include observable symptoms such as slurred speech, tiredness, workplace accidents, excessive absenteeism or tardiness, glassy or bloodshot eyes, alcohol on breath, or any other justified reason. Any city employee including volunteer firemen may also be tested if there is reasonable cause to believe there is use of illegal drugs because of prior drug abuse, possession of illegal drugs or an arrest for any drug related charge. Department heads and/or supervisors are required to detail in writing, the specific facts which formed the basis for their determination that reasonable cause existed to warrant the testing of an employee. This documentation shall be forwarded to the city recorder. (1976 Code, § 1-906, as replaced by Ord. #365, Nov. 2001)

4-307. Refusal to consent. (1) Job applicant. A job applicant who refuses to consent to a drug and/or alcohol test will be denied employment with the city.

(2) Current employees. An employee who refuses to consent to a drug and alcohol test as it is required by this chapter, will be dismissed immediately. (1976 Code, § 1-907, as replaced by Ord. #365, Nov. 2001)

4-308. Confirmation of test results. An employee or job applicant whose drug test yields a positive result shall be given a second test. The second test shall use a portion of the same test sample withdrawn from the employee or applicant for use in the first test.

If the second test confirms the positive test result, the employee or applicant shall be notified of the results in writing by the city recorder or department head. The letter of notification shall identify the particular substance found and its concentration level. (1976 Code, § 1-908, as replaced by Ord. #365, Nov. 2001)

4-309. Consequences of confirming a positive test result. (1) Job applicants. Job applicants will be denied employment with the city if their positive test results have been confirmed.

(2) Current employees. If a current employee's positive test result has been confirmed, the employee is subject to immediate disciplinary action by his/her department head up to and including dismissal. (1976 Code, § 1-909, as replaced by Ord. #365, Nov. 2001)

4-310. The right to a hearing. If disciplinary action is taken against an employee, said, employee is entitled to a hearing before the board of mayor and aldermen as required by the city personnel policy, § 4-240.

An employee who requests a hearing before the board of mayor and aldermen under § 4-240, waives his/her right to confidentiality of the test results and all related information. (1976 Code, § 1-910, as replaced by Ord. #365, Nov. 2001)

4-311. Confidentiality of test results. All information from an employee's or applicant's drug and alcohol test is confidential and only those individuals with a need to know are to be informed of test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released until the results are confirmed.

An employee who requests a hearing before the board of mayor and aldermen under § 4-240, waives his/her right to confidentiality of the test results and all related information. (1976 Code, § 1-911, as replaced by Ord. #365, Nov. 2001)

4-312. Laboratory testing requirements. All drug and alcohol testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the city. Factors to be considered by the city in selecting a testing facility include:

(1) Testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;

(2) Methods of analysis which ensure reliable test results;

(3) Chain-of-Custody procedures which ensure proper identification, labeling, and handling of test samples; and

(4) Retention and storage procedures which ensure reliable results on confirmatory test of original samples. (1976 Code, § 1-912, as replaced by Ord. #365, Nov. 2001)

4-313. Compliance with Part 199 by the utility department. The Henderson Utility Department falls under the guidelines and shall abide by all

sections of the US DOT, Pipeline Safety Regulations revised as of October 1, 1990, Part 199 with all revisions and amendments thereto.

(1) Pre-employment and post accident testing for specified drugs shall be administered as outlined in Part 199.11.

(2) Random testing, using employee and covered private contractor identification numbers shall be administered as outlined in Part 199.11. Tests shall be administered at least quarterly by means of random drawings from all utility employee and covered private contractors.

(3) Reasonable cause testing shall be administered as outlined in Part 199.11. The decision to test shall be substantiated by the director of utilities.

(4) Employee assistance program shall be administered by an organization designated by the city.

(5) Medical review officer shall be appointed by the city.

(6) Samples shall be taken to a certified lab for analysis in accordance with USDOT Pipeline Safety Regulations, Part 199.

(7) All utility employees and applicants shall read and certify that they have read and understood these rules and regulations. (1976 Code, § 1-913, as replaced by Ord. #365, Nov. 2001)

4-314 – 4-324. Reserved for future use. (1976 Code, § 1-914, as replaced by Ord. #365, Nov. 2001)

4-325. Amendment of substance abuse policy. Amendments or revisions to these rules may be recommended for adoption by any member of the board of aldermen, the mayor or city recorder. Such amendments or revisions of these rules shall become effective upon final passage of the amending ordinance by the board of aldermen. (as added by Ord. #365, Nov. 2001)

CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

- 4-401. Title.
- 4-402. Purpose.
- 4-403. Coverage.
- 4-404. Standards authorized.
- 4-405. Variances from standards authorized.
- 4-406. Administration.
- 4-407. Funding the program.

4-401. Title. This section shall provide authority for establishing and administering the occupational safety and health program plan for the employees of City of Henderson, Tennessee. (1976 Code, § 1-1201, as replaced by Ord. #383, Aug. 2003)

4-402. Purpose. The City of Henderson, Tennessee, in electing to update their established program plan will maintain an effective occupational safety and health program 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 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) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee 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.

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

(4) Consult with the State Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

(5) Consult with the State 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, 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 the health standards, and provide for education and notification of all employees of the existence of this program. (1976 Code, § 1-1202, as replaced by Ord. #383, Aug. 2003)

4-403. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Henderson shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Henderson, Tennessee whether part-time or full-time, seasonal or permanent. (1976 Code, § 1-1202, as replaced by Ord. #383, Aug. 2003)

4-404. Standards authorized. The occupational safety and health standards adopted by the City of Henderson, Tennessee 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). (1976 Code, § 1-1203, as replaced by Ord. #383, Aug. 2003)

4-405. Variances from standards authorized. The City of Henderson, Tennessee may, upon written application of the Commissioner of Labor and Workforce Development of the State of Tennessee, 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, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Henderson, Tennessee shall notify or serve notice to 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 as designated by the City of Henderson, Tennessee shall be deemed sufficient notice to employees. (as added by Ord. #383, Aug. 2003)

4-406. Administration. For the purposes of this chapter, the mayor is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and Part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #383, Aug. 2003)

4-407. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the City of Henderson, Tennessee. (as added by Ord. #383, Aug. 2003)

CHAPTER 5

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-501. Purpose.
- 4-502. Enforcement.
- 4-503. Miscellaneous rules and regulations.
- 4-504. Disciplinary action.
- 4-505. Travel request.
- 4-506. City vehicle use.
- 4-507. Personal vehicle use.
- 4-508. Lodging.
- 4-509. Meals and incidentals.
- 4-510. Miscellaneous expenses.
- 4-511. Travel reconciliation.

4-501. Purpose. The purpose of this chapter is to bring the city into compliance with Public Acts 1993, chapter 433. This Act 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. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

4-502. Enforcement. The mayor of the city or his/her designee shall be responsible for the enforcement of these travel regulations. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

4-503. Miscellaneous rules and regulations. 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.

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

To qualify for reimbursement, travel expenses must be: directly related to the conduct of the city business for which travel was authorized, and actual, reasonable, and necessary under the circumstances. Expenses considered excessive will not be allowed. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

4-504. Disciplinary action. Violation of travel rules can result in disciplinary action for employees including possible termination of employment. 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. Travel fraud will result in criminal prosecution of officials and/or employees. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

4-505. Travel request. To be eligible for reimbursement of official travel expenses, an employee (other than department heads) must receive travel authorization from his/her department head prior to the travel. A signed authorization form from the department head is required for trips where the combination of all expenses (including mileage, gas, lodging, meals and conference fees) exceeds five hundred dollars (\$500.00).

Department heads, members of the board of aldermen, planning commission, board of zoning appeals or industrial development board must receive travel authorization from the mayor prior to the travel. A signed authorization form from the mayor is required for trips where the combination of all expenses (including mileage, gas, lodging, meals and conference fees) exceeds five hundred dollars (\$500.00) for department heads, members of the board of aldermen, planning commission, board of zoning appeals or industrial development board.

When required, all costs associated with the travel should be reasonably estimated and shown on the travel authorization form. The traveler must prepare an accurate description of the travel and why it is necessary. A copy of the conference program, if applicable, should be attached to the form. If the program isn't available prior to the travel, submit it with the reimbursement form. The signed authorization form shall be filed with accounts payable prior to any travel expense pre-payment or travel reimbursement being made. Travel advances will not be given except in extenuating circumstances but prepayment of registration fees, lodging, etc. will be allowed when paid directly

to the provider. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-506. City vehicle use. When out of town travel is required, the city may require the employee to drive a city vehicle. If a city vehicle is assigned to an employee, special permission must be obtained from the department head or mayor for an employee to use a personal vehicle (see § 4-507 below). If a city vehicle is provided for travel, the traveler is responsible for seeing that the vehicle is used properly and only for acceptable reasons. Acceptable reasons shall be:

- (1) Between places of official business;
- (2) To and from places of temporary lodging; and
- (3) Between either (1) or (2) of this section and restaurants, drug stores or similar places related to comfort and health of the business traveler.

The employee will be reimbursed for expenses directly related to the actual and normal use of the city vehicle when proper documentation is provided. Out-of-town repair cost to the city vehicle in excess of two hundred fifty dollars (\$250.00) must be cleared with the proper city official before the repair is authorized. Fines for traffic or parking violations while using a city vehicle will not be reimbursed by the city. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009 and Ord. #529, March 2020 *Ch3_08-12-21*)

4-507. Personal vehicle use. Employees shall use city vehicles when available. If a city vehicle is assigned to an employee, it shall be assumed that the city vehicle will be used for out of town travel. If an employee is not assigned a city vehicle, a vehicle "may" be made available by the city. In any case, use of a private vehicle for business related travel must be approved in advance by the mayor or department head.

If a city vehicle is not available for business related travel, the city will pay a mileage rate which is set and updated as needed by resolution adopted by the city board. If a city vehicle is available for the employee to use and the employee chooses to use his personal vehicle, the city will pay a reduced mileage rate which is set and updated as needed by resolution adopted by the city board. The department head (as it relates to his/her employees) or the mayor (as it relates to the department heads) can make exceptions and pay the full mileage rate in limited circumstances when an employee wishes to carry family members on travel.

The miles for reimbursement shall be paid from origin to destination and back by the most direct route. Necessary vicinity travel related to official city business will be reimbursed. If an indirect route is taken, a reputable online mileage calculator will be used to determine the mileage to be reimbursed.

If a privately owned automobile is used by two (2) or more travelers on the same trip, only the traveler who owns or has custody of the automobile will be reimbursed for mileage. It is the responsibility of the traveler to provide

adequate insurance to hold harmless the city for any liability from the use of the private vehicle. Travelers will not be reimbursed for automotive repair, breakdowns, or fuel when using their personal vehicle. Fines for traffic or parking violations while using a city vehicle or a personal vehicle will not be reimbursed by the city. (Ord. #270, Aug. 1993, modified, as replaced by Ord. #409, Sept. 2005, Ord. #428, Dec. 2007, Ord. #440, Feb. 2009, Ord. #477, June 2013, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-508. Lodging. The authorized traveler shall attempt to select hotels or motels that are reasonably priced and they should request special government rates if available. Even if it costs more, travelers may be allowed to stay at the officially designated hotel of the meeting or conference. Lodging receipts must be submitted with the reimbursement form. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

4-509. Meals and incidentals. This city will pay per diem for meals, including related tips and incidentals (M&IE), only when travel is for more than twelve (12) hours at an approved rate per day which is set and updated as needed by resolution adopted by the city board based on the table below. No receipts are required for meals, related tips and incidentals. No more than the approved rate will be paid for meals on any one (1) day for any one (1) traveler.

When travel is		Your allowance is
More than 12 hours but less than 24 hours		75% of the applicable M&IE rate
24 hours or more, on	The day of departure	75% of the applicable M&IE rate
24 hours or more, on	Full days of travel	100% of the applicable M&IE rate
24 hours or more, on	The last day of travel	75% of the applicable M&IE rate

When prisoners are transported by police officers and meals are purchased for said prisoner, meals shall be reimbursed to the officer at a reasonable rate provided the officer shall provide the actual receipt for said meal(s). (Ord. #270, Aug. 1993, modified, as replaced by Ord. #440, Feb. 2009, and Ord. #477, June 2013)

4-510. Miscellaneous expenses. Registration fees for approved conferences, conventions, seminars, meetings, and other educational programs will be allowed and will generally include the cost of official banquets, meals,

lodging, and registration fees. Registration fees should be specified on the original travel authorization form and can include a request for a pre-registration fee payment. Parking fees, rental car fees, taxi or other business related expenses will be reimbursed at actual cost as long as the traveler provides receipts.

Laundry, valet service, baggage handling and tips or gratuities paid for such services are considered personal expenses and are not reimbursable. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

4-511. Travel reconciliation. Within ten (10) days of return from travel, the traveler is expected to complete and file the expense reimbursement form. It must be certified by the traveler that the amount due is true and accurate. Lodging, travel, taxi, parking fees, and other required receipts must be attached. A copy of the travel authorization form, when required, should be attached with the reconciliation. If a travel authorization was not required, a brief description of the trip is to be included on the reconciliation. Direct payments made by the city should be included on the travel reconciliation form in the space provided. The travel reconciliation form shall be signed by the department head and the mayor or his/her designee prior to payment being made. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

CHAPTER 6

CODE OF ETHICS

SECTION

- 4-601. Applicability.
- 4-602. Definition of "personal interest."
- 4-603. Disclosure of personal interest by official with vote.
- 4-604. Disclosure of personal interest in nonvoting matters.
- 4-605. Acceptance of gratuities, gifts, etc.
- 4-606. Exceptions to § 4-605 (gratuities, gifts, etc.).
- 4-607. Use of information.
- 4-608. Use of multiple time, facilities, etc.
- 4-609. Use of position or authority.
- 4-610. Outside employment.
- 4-611. Ethics complaints.
- 4-612. Violations.

4-601. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed official and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #421, April 2007)

4-602. Definition of "personal interest." (1) For purposes of §§ 4-603 and 4-604, "personal interest" means:

- (a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
- (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
- (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), mother-in-law and father-in-law, sibling(s) and their spouse(s), child(ren) and their spouse(s), stepchild(ren) and their spouse(s), grandchild(ren) and their spouse(s).

(2) The words "employment interest" includes a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #421, April 2007)

4-603. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself/herself from voting on the measure. (as added by Ord. #421, April 2007)

4-604. Disclosure of personal interest in nonvoting matters. At any publicly advertised meeting, if an official or employee must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion, he/she shall publicly disclose said personal interest before the exercise of the discretion. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself/herself from the exercise of discretion in the matter.

In any situation other than at a publicly advertised meeting, if an official or employee must exercise discretion relative to any matter, who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion, shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy recuse himself/herself from the exercise of discretion in the matter. (as added by Ord. #421, April 2007)

4-605. Acceptance of gratuities, gifts, etc. Except as permitted in § 4-606 below, an official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #421, April 2007)

4-606. Exception to § 4-605 (gratuities, gifts, etc.). Section 4-605 of this chapter is not applicable to the following:

(1) Opportunities, benefits and services which are available on the same conditions as for the general public.

(2) Anything, for which the covered officer or employee or a member of his or her immediate family, pays the fair market value.

(3) Any contribution that is lawfully made to the covered officer or employee's political campaign fund, or to that of his or her immediate family, including any activities associated with a fundraising event in support of a political organization or candidate.

(4) Educational materials provided for the purpose of improving or evaluating municipal programs, performances, or proposals.

(5) A gift from a relative, meaning those persons related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, any spouse of those listed above and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

(6) Intra-governmental and inter-governmental gifts. For the purpose of this chapter, "intra-governmental gift" means any gift that is given to an officer or employee from another officer or employee, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(7) Ceremonial gifts or awards which have insignificant monetary value.

(8) Unsolicited gifts of nominal value (less than ten dollars (\$10.00)) or trivial items of informational value.

(9) Food or refreshments not exceeding twenty-five dollars (\$25.00) per person in value on a single calendar day; provided that the food or refreshments are: consumed on the premises from which they were purchased or prepared; or catered.

(10) Food, refreshments, lodging, transportation and other benefits provided by an organization or a private company for officials or employees to attend a bonafide training conference, seminar or event provided that it is in the best interest of the city for the employee(s) or official(s) to attend. Travel shall be approved as required by the city's travel policy. (as added by Ord. #421, April 2007)

4-607. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #421, April 2007)

4-608. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by agreement, contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #421, April 2007)

4-609. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself/herself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #421, April 2007)

4-610. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. Outside employment must be approved in writing by the mayor for all full-time employees. (as added by Ord. #421, April 2007)

4-611. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) Complaints can take place in two (2) different formats:

(a) Formal written complaint. A formal written complaint shall include all details of the alleged violation including dates and shall be signed by the complainant and notarized. Formal written complaints shall be reviewed by the city attorney as outlined in this section.

(b) Informal complaint. If the mayor or any department head receives information about a possible violation of this chapter by any other means than a formal complaint, they shall investigate the matter and if it appears a violation has occurred, they shall forward the matter to the city attorney for a formal investigation. If no proof of a violation is found by the mayor or department head, no further action is needed.

(3) (a) The city attorney shall investigate any credible complaint against any official or employee for the alleged violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations

for action to end or seek retribution for any activity that, in the attorney's judgment constitutes a violation of this code of ethics. The city attorney shall report his findings in writing to the governing body.

(b) The city attorney may request that the governing body hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(4) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(5) When a violation of this code of ethics also constitutes a violation of a personnel policy or rule, the violation shall be dealt with as a violation of both policies and any punishment allowed by either policy or code could apply. (as added by Ord. #421, April 2007)

4-612. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #421, April 2007)