

APPENDICES TO THE MOUNT CARMEL MUNICIPAL CODE

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APPENDIX B

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN.

Appendix A

1. Campaign finance.

All candidates for the chief administrative office (mayor), any candidates who spend more than \$500, and candidates for other offices that pay at least \$100 a month are required to file campaign financial disclosure reports. Civil penalties of \$25 per day are authorized for late filings. Penalties up to the greater of \$10,000 or 15 percent of the amount in controversy may be levied for filings more than 35 days late. It is a Class E felony for a multicandidate political campaign committee with a prior assessment record to intentionally fail to file a required campaign financial report. Further, the treasurer of such a committee may be personally liable for any penalty levied by the Registry of Election Finance (T.C.A. § 2-10-101–118).

Contributions to political campaigns for municipal candidates are limited to:

- a. \$1,000 from any person (including corporations and other organizations);
- b. \$5,000 from a multicandidate political campaign committee;
- c. \$20,000 from the candidate;
- d. \$20,000 from a political party; and
- e. \$75,000 from multicandidate political campaign committees.

The Registry of Election Finance may impose a maximum penalty of \$10,000 or 115 percent of the amount of all contributions made or accepted in excess of these limits, whichever is greater (T.C.A. § 2-10-301–310).

Each candidate for local public office must prepare a report of contributions that includes the receipt date of each contribution and a political campaign committee's statement indicating the date of each expenditure (T.C.A. § 2-10-105, 107).

Candidates are prohibited from converting leftover campaign funds to personal use. The funds must be returned to contributors, put in the volunteer public education trust fund, or transferred to another political campaign fund, a political party, a charitable or civic organization, educational institution, or an organization described in 26 U.S.C. 170(c) (T.C.A. § 2-10-114).

2. Conflicts of Interest.

Municipal officers and employees are permitted to have an "indirect interest" in contracts with their municipality if the officers or employees publicly acknowledge their interest. An indirect interest is any interest that is not "direct," except it includes a direct interest if the officer is the only supplier of

goods or services in a municipality. A “direct interest” is any contract with the official himself or with any business of which the official is the sole proprietor, a partner, or owner of the largest number of outstanding shares held by any individual or corporation. Except as noted, direct interests are absolutely prohibited (T.C.A. § 6-2-402, T.C.A. § 6-20-205, T.C.A. § 6-54-107–108, T.C.A. § 12-4-101–102).

3. Disclosure conflict of interests.

Conflict of interest disclosure reports by any candidate or appointee to a local public office are required under T.C.A. §§ 8-50-501 *et seq.* Detailed financial information is required, including the names of corporations or organizations in which the official or one immediate family member has an investment of over \$10,000 or 5 percent of the total capital. This must be filed no later than 30 days after the last day legally allowed for qualifying as a candidate. As long as an elected official holds office, he or she must file an amended statement with the Tennessee Ethics Commission or inform that office in writing that an amended statement is not necessary because nothing has changed. The amended statement must be filed no later than January 31 of each year (T.C.A. § 8-50-504).

4. Consulting fee prohibition for elected municipal officials.

Any member or member-elect of a municipal governing body is prohibited under T.C.A. § 2-10-124 from “knowingly” receiving any form of compensation for “consulting services” other than compensation paid by the state, county, or municipality. Violations are punishable as Class C felonies if the conduct constitutes bribery under T.C.A. § 39-16-102. Other violations are prosecuted as Class A misdemeanors. A conviction under either statute disqualifies the offender from holding any office under the laws or Constitution of the State of Tennessee.

“Consulting services” under T.C.A. § 2-10-122 means “services to advise or assist a person or entity in influencing legislative or administrative action, as that term is defined in § 3-6-301, relative to the municipality or county represented by that official.” “Consulting services” also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the municipality represented by that official. “Consulting services” does not mean the practice or business of law in connection with representation of clients by a licensed attorney in a contested case action, administrative proceeding or rule making procedure;

"Compensation" does not include an "honorarium" under T.C.A. § 2-10-116, or certain gifts under T.C.A. § 3-6-305(b), which are defined and prohibited under those statutes.

The attorney general construes "Consulting services" to include advertising or other informational services that directly promote specific legislation or specifically target legislators or state executive officials. Advertising aimed at the general public that does not promote or otherwise attempt to influence specific legislative or administrative action is not prohibited. Op. Atty.Gen. No. 05-096, June 17, 2005.

5. Bribery offenses.

a. A person who is convicted of bribery of a public servant, as defined in T.C.A. § 39-16-102, or a public servant who is convicted of accepting a bribe under the statute, commits a Class B felony.

b. Under T.C.A. § 39-16-103, a person convicted of bribery is disqualified from ever holding office again in the state. Conviction while in office will not end the person's term of office under this statute, but a person may be removed from office pursuant to any law providing for removal or expulsion existing prior to the conviction.

c. A public servant who requests a pecuniary benefit for performing an act the person would have had to perform without the benefit or for a lesser fee, may be convicted of a Class E felony for solicitation of unlawful compensation under T.C.A. § 39-16-104.

d. A public servant convicted of "buying and selling in regard to offices" under T.C.A. § 39-16-105, may be found guilty of a Class C felony. Offenses under this statute relevant to public officials are selling, resigning, vacating, or refusing to qualify and enter upon the duties of the office for pecuniary gain, or entering into any kind of borrowing or selling for anything of value with regard to the office.

e. Exceptions to 1, 3, and 4, above include lawful contributions to political campaigns, and a "trivial benefit" that is "incidental to personal, professional, or business contacts" in which there is no danger of undermining an official's impartiality.

6. Official misconduct, official oppression, misuse of official information.

a. Public misconduct offenses under Tennessee Code Annotated § 39-16-401 through § 39-16-404 apply to officers, elected officials, employees,

candidates for nomination or election to public office, and persons performing a governmental function under claim of right even though not qualified to do so.

b. Official misconduct under Tennessee Code Annotated § 39-16-402 pertains to acts related to a public servant's office or employment committed with an intent to obtain a benefit or to harm another. Acts constituting an offense include the unauthorized exercise of official power, acts exceeding one's official power, failure to perform a duty required by law, and receiving a benefit not authorized by law. Offenses under this section constitute a Class E felony.

c. Under Tennessee Code Annotated § 39-16-403, "Official oppression," a public servant acting in an official capacity who intentionally arrests, detains, frisks, etc., or intentionally prevents another from enjoying a right or privilege commits a Class E felony.

d. Tennessee Code Annotated § 39-16-404 prohibits a public servant's use of information attained in an official capacity, to attain a benefit or aid another which has not been made public. Offenses under the section are Class B misdemeanors.

e. A public servant convicted for any of the offenses summarized in sections 2-4 above shall be removed from office or discharged from a position of employment, in addition to the criminal penalties provided for each offense. Additionally, an elected or appointed official is prohibited from holding another appointed or elected office for ten (10) years. At-will employees convicted will be discharged, but are not prohibited from working in public service for any specific period. Subsequent employment is left to the discretion of the hiring entity for those employees. Tennessee Code Annotated § 39-16-406.

7. Ouster law.

Some Tennessee city charters include ouster provisions, but the only general law procedure for removing elected officials from office is judicial ouster. Cities are entitled to use their municipal charter ouster provisions, or they may proceed under state law.

The judicial ouster procedure applies to all officers, including people holding any municipal "office of trust or profit." (Note that it must be an "office" filled by an "officer," distinguished from an "employee" holding a "position" that does not have the attributes of an "office.") The statute makes any officer subject to such removal "who shall knowingly or willfully misconduct himself in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall

engage in any form of illegal gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude” (T.C.A. § 8-47-101).

T.C.A. § 8-47-122(b) allows the taxing of costs and attorney fees against the complainant in an ouster suit if the complaint subsequently is withdrawn or deemed meritless. Similarly, after a final judgment in an ouster suit, governments may order reimbursement of attorney fees to the officer targeted in a failed ouster attempt (T.C.A. § 8-47-121).

The local attorney general or city attorney has a legal “duty” to investigate a written allegation that an officer has been guilty of any of the mentioned offenses. If he or she finds that “there is reasonable cause for such complaint, he shall forthwith institute proceedings in the Circuit, Chancery, or Criminal Court of the proper county.” However, with respect to the city attorney, there may be an irreconcilable conflict between that duty and the city attorney’s duties to the city, the mayor, and the rules of professional responsibility governing attorneys. Also, an attorney general or city attorney may act on his or her own initiative without a formal complaint (T.C.A. § 8-47-101–102). The officer must be removed from office if found guilty (T.C.A. § 8-47-120).

PERSONNEL POLICIES AND PROCEDURES



TOWN OF MOUNT CARMEL, TENNESSEE

APPROVED: September 27, 2001
AMENDED: March 25, 2003; August 24, 2004, March 22, 2005,
October 25, 2005, December 27, 2005, July 22, 2008,
August 28, 2012, August 27, 2013

FOREWORD

The Town of Mount Carmel is pleased to welcome you as a municipal employee. You are now part of an organization that exists for one purpose, to serve the people of Mount Carmel. Your job is to serve all of the people of the town with efficiency and courtesy. It is well to bear in mind that the services of the town are as good as, and no better than, the employees performing them.

This personnel policy manual is written to acquaint new employees and remind old employees of the advantages and the responsibilities of town employment. In addition, it provides guidance to supervisors and members of the Governing body.

Just as the services extended by the town are important to the citizenry, the well-being and welfare of the town employees are also essential.

Every town job is important and the manner in which you perform your job determines to a large extent the public relations of town government, as well as pay increases. You will find being considerate and courteous, as well as conscientious, reliable, and prompt, gives you more satisfaction in your work and, at the same time, increases the regard that the people of Mount Carmel have for town employees.

These policies have been approved by the Board of Mayor and Aldermen and employees should review this manual at least twice a year.

Nothing contained anywhere in this manual should be construed as a contract for employment, nor a promise or guarantee for perpetual association or advancement in pay or position. It is not intended to create a property interest in future employment. Any individual employment contract must be in writing, approved by the Board of Mayor and Aldermen, and signed by the Mayor.

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CHAPTER I

GENERAL PROVISIONS

1.10 Adoption of Rules

These rules and amendments to these rules apply to each employee (contract employees and independent contractors are not covered).

1.20 Amendment of Rules Procedures

These rules may be amended from time-to-time as the needs of the service require. Amendments and revisions of these rules and regulations not inconsistent with the Town Charter may be initiated by the Governing Body. Proposed amendments or revisions, in whole or in part, will be reviewed with town personnel prior to implementation. Changes in applicable superseding state and federal law shall take effect upon the effective date(s) of such superseding laws.

Holders of copies of these Personnel Policies are responsible for inserting changes as they are issued and for keeping their respective copies of the Policies up to date.

Copies of this Manual are issued to all covered employees. Replacement copies may be obtained from the Office of the City Recorder. Manuals shall be returned upon employee separation or upon request by the City Administrator.

Suggestions for amendments to these Policies are welcome at any time from any employee. Such suggestions should be submitted in writing to the City Administrator.

1.30 Administration of Rules

On a day-to-day basis the City Administrator shall be charged with the responsibility of the administration of the provisions of these policies. However, the policies are not meant to remove or diminish the authority of the Mayor as Chief Executive Officer. In the event of a vacancy in the position of City Administrator or in the event of the temporary absence of the City Administrator, any function to be exercised by the City Administrator may also be exercised by the Mayor.

1.40 Coverage of the Rules

These policies apply to all covered employees of the Town of Mount

Carmel, Tennessee, including all existing employees at the date of the adoption of these policies, and these rules shall supersede any written or unwritten rules or practices of the Town of Mount Carmel and are intended to supersede any conflicting ordinance.

1.50 Definitions

Whenever the following terms are used, they shall have the following meanings:

- (1) Absence Without Leave - The unauthorized absence of an employee from place of duty during normal duty hours.
- (2) Appointed Position - A position in which there is vested a grant of power either discretionary or ministerial with duties created and defined by law (e.g. City Administrator, Recorder, Treasurer, City Judge, Fire Chief, City Attorney, Public Utilities Board Manager, Recreation Director, etc.).
- (3) Appointing Authority - The Board of Mayor and Aldermen in the case of the City Administrator and Recorder, the Mayor in the case of all other appointed positions and Department Heads with the advise and consent of Board of Mayor and Aldermen, the Public Utilities Board in the case of sewer department employees, and Department Heads in the case of all other employees.
- (4) City - Town of Mount Carmel, Tennessee.
- (5) Complaint - A misunderstanding or disagreement on the part of an employee arising out of a belief that they are being treated unfairly in regard to the terms or conditions of their employment.
- (6) Cooperation - Ability to work with others.
- (7) Dismissal - The termination of employment of an employee.
- (8) Emergency Employee - An employee hired to provide temporary assistance because of a special project or temporary increase in workload.
- (9) Employee - Any person in the employ of the town who receives a salary or wage. Non-exempt employees are paid by the hour and will be paid overtime when they work over 40 hours in any one workweek. Exempt employees include City Administrator, Recorder, Police Chief, Public Works Foreman, Waste Water Foreman, Treasurer and any other employee in a position qualifying as "exempt" under the Fair Labor Standards Act.
- (10) Exempt Employee - An employee compensated on a salary basis who also meets one of the definitions under the Fair Labor Standards Act for an employee exempt from the provisions of the overtime compensation provisions.
- (11) Contract Employees - Employees who work under an individual contract, e.g. Recreation Director, City Judge, etc.

- (12) Employee Classifications
- A. Full-time Permanent - A permanent position that normally requires a minimum 40 work hours per week.
 - B. Part-time Permanent - A permanent position that normally requires less than 40 work hours per week.
 - C. Full-time Temporary - A temporary position lasting for an unspecified amount of time that does normally require a minimum 40 work hours per week. This employee shall not receive fringe benefits provided other employees.
 - D. Part-time Temporary - A temporary position lasting for an unspecified amount of time which normally requires less than 40 work hours per week. This employee shall not receive fringe benefits provided other employees.
- (13) Governing Body - The Board of Mayor and Aldermen.
- (14) Grievance - An appeal of termination.
- (15) His/he - These words and all similar references to the masculine gender shall be understood to include the feminine gender as well.
- (16) Immediate Family - A husband, wife, child, father, mother, sister, brother, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandchildren and grandparents of employee.
- (17) Initiative - Ability to plan execute without being instructed in specific detail.
- (18) Knowledge of Work - Knowledge of the job through education, training and experience. An understanding of "why" as well as "how."
- (19) Reduction in Force - Involuntary termination (reduction in work force) of employment because of lack of work, lack of funds, privatization or reorganization.
- (20) Leave of Absence - An approved period of time during which the employee is not physically present or work.
- (21) Leave Without Pay - Time off from work for the employee's personal reasons and for which period the employee receives no pay and shall not accumulate benefits.
- (22) Non-exempt Employee - An employee who receives a regular hourly wage and is required to account for all time worked as well as the use of sick, vacation and other leave time on an hourly basis who is entitled to overtime pay at a rate of not less than one and one-half times his or her hourly rate after having worked forty (40) hours of work in any give work week.
- (23) On-Call Employee - An employee required to respond within thirty (30) minutes to a call to report to work that is placed outside normally scheduled working hours.
- (24) Pay Period - The period of time between normal paydays that are every other Thursday.

- (25) Personal Appearance - Neatness, cleanliness, style of clothing, grooming, and appearance that is appropriate for the job being performed.
- (26) Probationary Period - A period of six (6) months during which an employee is required to demonstrate his fitness for a particular position as part of the selection process.
- (27) Production - Quantity of work accomplished in a specific period of time.
- (28) Public Relations - Manners, courtesy, tact, diplomacy, proper speech and grammar, and ability to meet and work with the public.
- (29) Quality of Work - Accuracy, thoroughness, neatness, intelligence, analytical and reflective of organized thought.
- (30) Reinstatement - The privilege of rehire, which may be granted to a former employee who voluntarily terminates their employment while in good standing and after giving proper notice.
- (31) Resignation - Voluntary termination of employment by an employee.
- (32) Suspension - An enforced leave of absence, with or without pay, for disciplinary purposes or pending investigation of charges against the employee.
- (33) Transfer - The movement of an employee from one position to another that has the same pay assignment.
- (34) Working Day - One shift during which an employee is scheduled to work.
- (35) Work Week - The number of hours regularly scheduled to be worked during any seven consecutive days by an individual employee.

CHAPTER II
EQUAL EMPLOYMENT OPPORTUNITY

2.10 Prohibition of Discrimination

It is the policy of the Town of Mount Carmel, Tennessee, to provide equal opportunity employment to all qualified applicants and to all employees with respect to initial employment, advancement, and general working conditions, without regard to age, race, creed, color, sex or national origin.

Discrimination against any person in recruitment, examination, employment training, promotion, retention, discipline or any other aspects of personnel administration because of political or religious opinions or affiliations or because of race, national origin or other non-merit factors is prohibited. Discrimination on the basis of age or sex or physical disability is prohibited except where specific age, sex or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration.

2.20 Discrimination Complaints and Appeals

Applicants for employment with the town alleging discrimination in the town employment priorities or policies, and employees of the town with complaints of discrimination shall follow the complaint and appeals procedure set forth below:

- A. The affected applicant or employee shall file a written complaint with the Town.
- B. Within ten working days after the complaint has been filed, the City Administrator shall meet with the affected employee, the party(ies) concerned in the complaint and any other persons necessary to make a decision concerning the action (unless the complaint is made against the City Administrator or Mayor in which case the Vice-Mayor shall process the complaint.).
- C. Within fifteen (15) working days after the complaint has been filed, a written decision on the complaint will be rendered. A copy of the decision shall be given to the party(ies) named in the complaint.
- D. All employees of, or applicants for employment with the Town of Mount Carmel, who believe they have been discriminated against also have a right to file a complaint with the Tennessee Human Rights Commission and/or the U.S. Equal Employment Opportunity Commission.

- E. No employee of, or applicant for employment with, the town shall be disciplined or discriminated against in any way because of the proper use of the Discrimination, Complaints, and Appeals Procedure.

2.30 Sexual Harassment

Sexual harassment will not be tolerated by the Town of Mount Carmel. The town affirms that all men and women are to be treated fairly and equally with dignity and respect. Any form of sexual harassment contradicts the policies of the town and will be treated as discrimination on the basis of sex.

Sexual harassment is a form of employee misconduct that undermines the integrity of the employee relationship. It refers to behavior which is not welcome, which is personally offensive, which weakens morale, and which therefore interferes with the work effectiveness of its victims and their co-workers. A supervisor who uses implicit or explicit coercive sexual behavior to control, influence, or affect the career, salary, or job of an employee is engaging in sexual harassment. Similarly, an employee of the department or division who behaves in this manner in the process of conducting department or division business is engaging in sexual harassment. Sexual harassment may include actions such as:

- Sex-oriented verbal "kidding" or abuse;
- Subtle pressure for sexual activity;
- Physical contact such as patting, pinching, or constant brushing against another body; and
- Demands for sexual favors, accompanied by implied or overt promises of preferential treatment or threats concerning an individual's employment status.

It is possible for sexual harassment to occur at two levels: among peers or co-workers, or between supervisors and subordinates. Complaints of sexual harassment may be submitted to the employee's immediate supervisor, unless the issue is with that particular supervisor, or the employee may have the right to go directly to the next level of management. The complaint is then channeled to the next higher supervisor, and so on up to the Board of Mayor and Aldermen, if necessary. Individuals who engage in harassment are subject to disciplinary action, including employment suspension, demotion or discharge.

CHAPTER III

CLASSIFICATION, PAY AND FRINGE BENEFITS

3.10 Job Descriptions

All positions are defined according to the duties, responsibilities, level of difficulty and the minimum qualification of training and experience and other qualifications felt necessary for entry into the various classifications.

3.20 Employee Compensation

Employee compensation shall be in an amount set by the Mayor upon the recommendation of the City Administrator and within the rate/amount budgeted by the Board of Mayor and Aldermen and defined within the Merit Pay Plan (Resolution Nos. 217 and 221). Employee compensation shall depend upon a) classification, b) longevity, and c) merit.

A non-exempt town employee who does not work his regularly scheduled work week shall be paid only for hours worked, unless such absence is authorized as paid leave by the employee's supervisor, or the City Administrator, or the Mayor.

Regular paydays for all town employees shall be every other Friday. Checks will be distributed by the Treasurer to individual employees or to their supervisor. All non-exempt employees will sign their time cards at the end of each pay-period and supervisors will also be required to sign time cards. Signature on time card is a verification the employee has worked the exact hours shown on the time card and no more or no less for the applicable period shown on said card.

The following deductions, as required by State and Federal law, shall be made from each employee's pay:

- A. Federal Withholding Tax
- B. Social Security (FICA)
- C. State Withholding Tax
- D. Medicare
- E. Retirement

It is the policy of the town that no advance on future wages shall be made.

3.30 Periodic Pay Increases and Advancement

Salaries and wages will be evaluated annually for all town departments. Adjustments will be considered on the basis of performance, standard of service, and current finances. The various factors that influence salary adjustment and advancement are as follows: knowledge of work, quality of work, length of service, use of working time, initiative, ability to work with others, loyalty and conduct, personal appearance, public relations, absenteeism and tardiness, care and maintenance of equipment, ability to adapt, leadership, acceptance of responsibility, self-motivation and cost control.

It is the duty of the City Administrator and all department heads to identify outstanding workers by conducting an annual performance evaluation and to adjust the rate of pay if merited according to performance, across the board raises, and financial limitations.

Seniority or longevity is not necessarily a basis for promotion or increase in pay. Promotions and pay increases will be on the basis of performance evaluations with length of service only one factor for consideration.

3.40 Benefits

Fringe benefits shall be paid or accrued every pay period.

The cash pay of employees by no means constitutes their total pay since employees receive a number of benefits that have a substantial value.

The benefits for eligible employees are as follows:

- A. Health Insurance (through a plan selected by the Governing Body)
- B. Life Insurance (through a plan selected by the Governing Body)
- C. Pension Plan (through a plan selected by the Governing Body)
- D. Workman's Compensation
- E. FICA (social security)
- F. Unemployment compensation paid upon valid claim
- G. Paid holidays
- H. Paid vacations
- I. Paid sick leave

The terms and conditions of these benefits may be governed by State law, federal law, and Board policy or by contract; detailed information is available at the office of the Recorder.

3.50 Pay at Termination

Employees who are terminated will normally be paid on the next regularly scheduled payday.

3.60 Hours of Work

The standard workweek for each department will be determined by the department head with approval of the City Administrator. Up to one hour will be allowed for lunch, including travel time, and will not be considered part of the regular workday.

Employees of the Wastewater/Public Works Department shall rotate "on-call duty." [Employees will be paid \$75.00 per week when they are "on call." If they are called out, then they will be paid overtime if their hours of work exceed forty in that workweek.]

The City Administrator or the Department Head shall give adequate notice to all employees of any change in the starting and stopping hours of the workday.

There shall be allowed two (2) fifteen (15) minute rest periods for all full-time employees during the workday. One period shall be mid-morning and one period shall be mid-afternoon. Such periods shall not exceed 15 minutes in length, including travel time.

3.70 Attendance

Employees shall be in attendance at their assigned places of work in accordance with the policies regarding hours of work, holidays and leave. If an employee, for some un-avoidable reason, cannot report for work, he shall notify his supervisor or department head before the start of the shift. Notification Policy will be set by the Department Head. Failure on the part of an employee to comply with these policies may be cause for disciplinary action.

3.80 Overtime Compensation

All non-exempt employees shall receive overtime pay for each hour worked in excess of the employee's regularly scheduled 40 hour

workweek, unless other agreement is reached between the employee and the Town, as allowed by law. Police officers may be compensated for overtime in accordance with the specific provisions dealing with police officers under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. Other hourly paid town employees may also accrue compensation time off in lieu of overtime for all hours worked in excess of forty (40) in any one workweek so long as approved by the employees' Department Head and the City Administrator and may accrue such compensation time off up to a maximum of 240 hours. All hours worked in excess of forty (40) hours in any one workweek after an employee has accrued 240 hours of compensation time off must be paid at that employee's overtime compensation rate. Compensation time off must be documented by a detailed explanation of the work or project(s) that required working over forty (40) hours in the workweek on each employee's time card. All compensation time off accrued for all town employees qualifying for compensation time off must be used by June 30 of each fiscal year. A new accrual of compensation time off shall begin July 1 of each year.

Exempt employees who are paid by salary shall not be entitled to overtime compensation, or additional holiday pay. Any person required to work on a holiday as a part of their regularly scheduled workweek may receive an equal amount of time off preferably within the same pay period.

3.81 Call-Out Pay

From time-to-time, Town employees may be required to return to the Town to answer emergency calls. When a non-exempt employee, after departing from his or her regularly scheduled work place, reports back to work for emergency service after hours, the Town will pay him or her a minimum of two (2) hour's wages from the time he or she begins work at the worksite until the time he or she leaves the worksite. Each non-exempt employee called out will be paid at one and one-half (1 1/2) times his or her regular hourly rate while on call-out duty. (as added by Ord. #12-380, Aug. 2012)

3.90 Travel and Official Expenses

Employees shall be reimbursed for official travel in the performance of their duties, as well as for official expenses personally incurred related to their position. Details of the Town's Travel and Expense Regulations are found in Mount Carmel Code, Title I, Chapter 6 "Travel and Expense Regulations."

3.100 Uniforms and Personal Protective Equipment

- A. **Mandatory Uniform Allowance.** Uniforms, when required, will be provided by the Town. The cost to maintain those uniforms will also be paid by the Town.
- B. **Personal Protective Equipment.** Full-time employees may be reimbursed for the purchase of non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and non-specialty prescription safety eye wear as Personal Protective Equipment as follows:
 - 1. One eye wear frame with polycarbonate or CR-39 lenses up to a total cost of \$150.00.
 - 2. One pair of non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) per year, unless unavoidably damaged earlier as determined by the Department Head, up to a total cost of \$175.00. (as amended by Ord. #12-381, Aug. 2012)

3.110 Retirement

The Town of Mount Carmel, Tennessee, has no mandatory retirement age. Continued employment in a position is dependent upon the employee's ability to continue to perform assigned tasks in an efficient and timely manner. This should not be construed to constitute a contract between the town and the employee, as all positions are subject to elimination through a reduction in force or through general reorganization, for budget limitations and for other legitimate reasons of the town.

It is the duty of any employee planning on retiring to notify the City Administrator as far in advance as possible of such retirement. Notice one year in advance is contemplated under this notice section. Retirement for medical reasons is excluded from the notification requirements.

3.120 Phone Use Policy

- A. **Authorization**
Recommendations for the issuance of Town of Mount Carmel owned mobile phones should be approved by the Mayor. The use of a Town of Mount Carmel owned phone is considered a privilege and may be revoked. Regular landline phones may be provided to employees as is appropriate for their position.

B. Use1. Business Use

Any phone owned and issued by the Town of Mount Carmel shall have as its primary function, business related uses. When an employee is in travel status, they are encouraged to use their mobile phone, if service is available.

2. Personal Use

This policy acknowledges that from time to time, a Town of Mount Carmel issued phone may be used for personal calls. As long as this use of the phone is incidental to its primary business use, personal calls are allowed.

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

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

3. Prohibited Use

Phones issued by the Town of Mount Carmel shall not be used to harass or threaten any individual.

Typically, Town phones may not be used for personal long distance or fee services. However, in an emergency situation, the expense for any such use shall be reimbursed to the Town as soon as possible. When practical, the employee must seek approval from their supervisor.

4. Driving

The Town of Mount Carmel encourages the safe use of phones when operating any vehicle or piece of machinery. Drivers using cell phones may pull off the road into a safe

area until the call is terminated. If available, hands free devices may be used to conduct calls while driving.

5. Meetings

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

C. Phone Records

Every individual Town of Mount Carmel owned mobile phone user is responsible for checking the accuracy of their bill before it is processed for payment. Discrepancies in billing data shall be resolved in a timely manner. Landline calls incurring fees shall be assigned to the appropriate departmental budget code.

If a Town phone is used for personal long distance or fee services, the Supervisor must be notified and the Town reimbursed.

D. Other

The nature of the technology required to support the wireless mobile telephone is rapidly evolving. Phones may have additional features such as cameras, text messaging, Internet access, etc. The intent of this policy is to apply the principles enumerated herein to any such add-on or accessory feature.

E. Recordings

Employees that use devices to record telephone conversations shall do so only in a manner consistent with the status of such applicable Local, State and Federal Laws.

CHAPTER IV
LEAVE

4.10 Vacation Leave

No temporary employee, working full-time or part-time, shall be entitled to vacation leave. Permanent part-time employees are not entitled to vacation leave.

At the date of the adoption of these Policies, each employee shall be entitled to his vacation time earned up to that date and thereafter each full-time permanent employee shall earn vacation time in accordance with the following schedule:

YEARS SERVICE	ALLOWABLE VACATION PER YEAR
1-year	one week
2-years	two weeks
8-years	three weeks
14-years	four weeks
20-years	five weeks

Vacation time accrued shall not exceed two (2) years entitlement calculated from the anniversary date of each year of employment. Vacation time not taken within two (2) years of the date accrued shall be cashed out. At no time, shall any employee take more vacation time per year than is allowed under the above schedule under "allowable vacation per year" column, or up to two years accrual.

Vacation leave must be applied for by the employee and may be used only when approved by the department head, who shall designate such time or times when it will least interfere with the efficient operation of the department. However, this action must not be arbitrary and the department head may not unreasonably defer the taking of vacation leave so that employees are deprived of vacation rights. Employee vacation shall be allocated on January 1 of each year for the coming year based on what the employee qualifies for at that date. Any additional vacation that employees qualify for will not be awarded until after the anniversary date. Unless there is an emergency, all employees shall provide their supervisor with two weeks notice when requesting vacation time.

Department heads must apply for vacation leave to the City Administrator for approval.

For vacation leave purposes, an employee granted the privilege of "re-instatement" as defined on page 3 is a new employee. However, an employee re-instated after leave with or without pay or re-instated as a result of a grievance will not be considered a new employee.

Vacation leave shall not accrue to any employee on probation, in a non-pay status for 20 consecutive work hours during any pay period, suspension, lay-off, or leave of absence without pay, unless otherwise directed by the City Administrator.

No vacation leave shall be granted for less than one hour.

Vacation leave shall be taken on a normal workweek basis. Paid holidays falling within a period of vacation leave shall not be counted as vacation. Each employee, upon retirement or voluntary separation from the town, shall be paid for unused accumulated vacation leave. Upon the death of any employee, their estate shall be paid for their unused accumulated vacation leave.

4.20 Sick Leave

Each regular full-time employee will accrue sick leave at the rate of one work day per pay period. Employees may accumulate an unlimited amount of sick leave which may be carried over from one calendar year to another.

Generally, employees become eligible to use sick leave in the following situations.

1. When an employee is incapacitated by sickness or a non-job-related injury, or they are seeking medical, dental or other diagnosis or treatment.
2. When necessary care and attendance of a member of the employee's immediate family is approved by a department head. Immediate family members are defined in Section 1.50 "Definitions," No. 16, "Immediate family."
3. When employees have received notice from their doctor that they may jeopardize the health of others because they have been exposed to a contagious disease.

Sick leave benefits shall commence on the first day of such absence and shall continue for as long as sick leave credit remains. A one work-day absence while sick will constitute a charge of one day of sick leave. Each

day deducted from an employee's sick leave accumulation shall be for a regular workday and shall not include holidays and scheduled days off.

Sick leave shall be requested in advance for any non-emergency medical, dental or other diagnosis or treatment. Employees shall, when possible, notify their department head of their illness or incapacity before they are due to report to work on the first day of any sick leave. When an employee is not physically capable of doing so, they shall give notice as soon as possible.

To prevent abuse of the sick leave privilege, department heads are required to satisfy themselves that an employee is genuinely ill before sick leave is authorized. Any absence may require a doctor's certificate; and, any absence in excess of three workdays may also require a doctor's certificate to return to work, if, in the opinion of the department head, such action is deemed appropriate. Sick leave may be denied, and appropriate disciplinary action taken, when an employee is shown to be abusing sick leave privileges.

Sick leave shall not accrue to an employee who is on "leave without pay," including Short-term Disability, or is absent from work without approved excuse for 5 or more work days during any pay period

An employee, upon exhausting all earned sick leave, may use earned annual leave (vacation) After an employee has exhausted their accrued sick leave and vacation leave, leave with, or without, pay may be granted at the discretion of the mayor as a reasonable accommodation to disabled people. Also, employees may be placed on special leave without pay, or they may be terminated if unable to perform their job or another job with or without a reasonable accommodation. Should employees later be able to return to work, upon presentation of certification by a doctor, they shall be given preference for employment in a position for that they are qualified, with the approval of the mayor.

Employees may not borrow against future sick leave or transfer earned sick leave to another employee. Only the mayor may make exceptions to leave policy due to unusual and/or extenuating circumstances.

No employee shall be paid for accumulated sick leave. All accumulated sick leave shall expire upon an employees separation from employment; except that, an employee who retires under the Tennessee Consolidated Retirement System shall have all unused sick leave credited as additional time worked when calculating the employee's retirement benefits. (Res. 335, December 27, 2005)

4.30 Holiday Leave

The following shall be paid holidays for all permanent employees and shall be observed on the dates and days as prescribed by law:

New Year's Day	Thanksgiving Day
Good Friday	Day after Thanksgiving
Memorial Day	Veterans' Day
Independence Day	Christmas Eve
Labor Day	Christmas Day

The town offices, except essential services, shall be closed on official holidays. When a holiday falls on Saturday, it shall be observed on the preceding Friday. When a holiday falls on a Sunday, it shall be observed on the following Monday. Permanent part-time employees shall not be eligible for paid holidays.

All full-time permanent non-exempt employees required to work on a holiday may receive an equal amount of time off preferably within the same pay period or may be paid for those holiday hours worked at the rate of one and one-half times their regular rate at the discretion of the Department Head.

If a holiday occurs while an employee is on Workers' Compensation leave or other disability compensation leave, and is not using sick leave or vacation leave, no credit for the holiday shall be allowed.

In order to receive pay for an observed holiday, an employee must not have been absent without pay on the work day immediately preceding or immediately following the holiday unless excused by the supervisor or unless taking vacation or sick leave on such days.

Holidays that occur during a vacation, sick, funeral or other authorized leave shall not be charged against the leave.

4.40 Civil Leave

Employees are eligible for paid civil leave in the following situations:

1. When an employee is called to serve as a juror or is appointed to serve as a clerk or judge on an election board, the employee is entitled to his regular pay. Any fees paid to him as a result of this service shall be turned over to the town.
2. For the purpose of voting if the employee's working hours

- prevent voting during the time the polls are open.
3. When an employee is called to perform emergency civilian duty.
 4. When an employee is subpoenaed to appear in court on behalf of the town.

An employee who is required by subpoena to appear in court as a plaintiff, defendant or witness on a personal matter shall not be granted civil leave, but may be granted vacation leave or leave without pay.

An employee whose public service duty is completed before the end of his normal working day with the town shall return to his post of duty.

4.50 Maternity Leave

A pregnant employee may request maternity leave at such time as she feels she is unable to perform her normal duties or when her physician advises her to do so. Such leave shall be for a period not to exceed ninety (90) calendar days and shall be without pay after accrued vacation and sick leave have been expended.

An employee on maternity leave is expected to return to work after childbirth, miscarriage or abortion at the end of the 90-day leave of absence, or as soon thereafter as she can be reasonably expected to perform her normal duties. Failure to report at the end of the 90-day leave shall be considered as a resignation unless a time extension has been approved by the City Administrator.

4.60 Funeral Leave

Up to three (3) days in-state or (5) days out-of-state of funeral leave with pay may be granted for attendance of funerals of the immediate family of an employee. Any additional days may be charged to vacation, sick leave, or taken as leave without pay with the approval of the Department Head. One day of funeral leave with pay may be allowed for attendance of funerals of other non-immediate family members.

All funeral leave must be approved by the employee's immediate supervisor.

In situations where several employees wish to have time off to attend a funeral or funerals, discretion must be used by supervisory personnel so that town service can be maintained.

4.70 Military Leave/Veterans' Re-Employment

Any regular employee who has completed six months of satisfactory employment and who enters the U. S. armed forces will be placed on military leave. The City Administrator, mayor, or department head will approve military leave without pay when the employee presents his/her official orders. The employee must apply for reinstatement within 90 days after release from active duty.

The employee will be reinstated to a position in the current classification plan at least equivalent to his/her former job. His/her salary for the assigned position will be the salary provided under the position classification and compensation plan prevailing at the time of reinstatement or re-employment. If no job is available at the time the employee returns, he/she will be reinstated into the first available position. No current full-time employee will be terminated or laid off to allow for reinstatement.

Any regular full-time employee who is a member of the U.S. Army Reserve, Navy Reserve, Air Force Reserve, Marine Reserve, or any of the armed forces will be granted military leave for any field training or active duty required (excluding extended active duty). Such leave will be granted upon presentation of the employee's official order to his/her jurisdictional official. Compensation for such leave will be paid pursuant to Tenn. Code Anno. § 8-33-109.

It will be the employee's responsibility to arrange with the department head to attend monthly meetings on regular off-time, with pay applicable to the annual two-week training period. Employees entering an extended active duty will be given 15 days of pay when placed on military leave.

4.80 Injury Leave

Town employees are subject to the provisions of the Tennessee Workman's Compensation Act and are entitled to the benefits of that law, whether by injury or occupational disease arising out of and in the course of employment.

Injury or occupational disease occurring out of and in the course of employment shall be reported to the Recorder and/or supervisor as soon as possible and the Recorder shall file the necessary reports.

The Recorder will furnish information and reports concerning injuries, or alleged injuries, or occupational diseases which are or may be within the

scope of the Workman's Compensation Act, in order that proper medical attention is provided, compensation and expenses are paid, investigation and determination of legal liability may be made and that compensation is terminated when the disability ceases or benefits are exhausted.

An employee entitled to be paid Workman's Compensation for temporary disability may be granted sick leave with full pay for the first five (5) working days of such disability, including the day of injury (if disability began that day, assuming such employee has sufficient accumulated sick leave). At the expiration of the sick leave, provisions of the Workman's Compensation Act shall apply.

An employee who is receiving Workman's Compensation for an injury or occupational disease occurring out of and in the course of employment, shall have the option of electing to use accumulated sick leave and/or vacation leave to supplement Workman's Compensation up to, but not exceeding the employee's regular rate of pay. After all such sick and/or vacation leave has been used, the employee shall not be entitled to any compensation except that authorized by the Workman's Compensation Act. Such injured employees shall be carried in a leave without pay status for a period not to exceed one (1) year after which employment shall cease.

Employees injured on the job that receive a restricted release or restricted permission to return to work may be returned to their prior position if reasonable accommodation can be made without violating the medical restriction(s). Likewise, such an employee may be placed in another position within the town if such an open position exists and the injured employee's restrictions may be accommodated. Nothing herein should be construed as a commitment on the part of the Town to make work or create a position for an injured employee.

4.90 Absence without Leave

Absence by an employee from place of duty not specifically authorized or covered in this manual shall be charged as absence without leave.

Absence without leave shall be in a non-pay status and may be cause for reprimand or dismissal.

4.100 Family Leave

The Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et seq., shall be followed by the town. Please refer to the FMLA policy adopted by the Board of Mayor and aldermen. (See Resolution 265, September 24, 2002.)

4.110 Records to be Maintained

The Recorder shall maintain a record of each employee, accounting for time worked and all absences from work. The record shall include a compilation of vacation leave earned, used and unused, sick leave earned, used and unused, and any other type of approved leave used or unused.

All such reports shall be compiled by the Recorder in December each year, shall be verified by each employee, and shall be signed by said employee and by the Recorder.

All employment applications of unsuccessful applicants will be maintained in a separate file apart from employee personnel files.

CHAPTER V

(as deleted by Ord. #18-478, Jan. 2019 *Ch7_10-24-19*)

CHAPTER VI

DISCIPLINARY ACTION

6.10 Grounds

The following shall be grounds for taking disciplinary action against a town employee, which will range from oral reprimand to discharge. However, this list is not inclusive. Other conduct not described herein, may result in disciplinary action.

- (1) Tardiness, early departure, absence without leave, abandonment of position, or other failure to maintain a satisfactory attendance record;
- (2) Unsatisfactory performance of duties in terms of quality or quantity;
- (3) For supervisors, inability to plan, organize, or direct the work of subordinates;
- (4) In positions requiring initiative and independent judgment, the inability to perform duties without excessive supervision;
- (5) Insubordination, including the refusal or failure to comply with a proper order of higher authority or the refusal or failure to perform assigned work within capabilities;
- (6) Abuse of sick leave or other benefits;
- (7) Neglect, waste, damage, misuse, or unauthorized taking of any kind of town property;
- (8) Failure to retain qualifications necessary for the job;
- (9) Use of offensive language toward or abusive, improper, or discourteous treatment of a member of the public or another town employee;
- (10) Harassment or unfair treatment of any person because of political or religious opinions or affiliations or because of race, color, national origin, marital status, veteran status, age, sex or physical disability;
- (11) Possession, use or presence under the influence of an intoxicating beverage or illegal drug while on duty or on town property;
- (12) Fighting or gambling while on duty or on town property;
- (13) Acceptance of any gratuity or gift for performance or non-performance of duties, use of town position or time for private gain, or other conflict of interest violation;
- (14) Unauthorized or improper use of official authority;
- (15) Violation of the prohibitions on political activity or solicitation;
- (16) Use or attempted use of political influence or bribery to obtain a favorable personnel action;

- (17) Falsification of any town document or record;
- (18) Unauthorized disclosure of official information;
- (19) Conviction of a crime under such circumstances that unfitness for the position results or that disciplinary action is otherwise necessary in the best interest of the town;
- (20) Failure to observe required safety precautions or to communicate any violation of safety rules;
- (21) Conduct unbecoming a town employee, tending to be prejudicial to the reputation of the town government, or otherwise contravening the public interest;
- (22) Violation of the Constitution of the United States or the State of Tennessee, any state or federal law or regulations or any town ordinance;
- (23) Any other act or failure to act that demonstrates that the offender is unsuitable or unfit for employment with the Town of Mount Carmel;
- (24) Failure to notify supervisor, as required by department rule prior to the start of their shift if unable to work;
- (25) Breach of required confidentiality;
- (26) Sabotage;
- (27) Waste of time;
- (28) Failure to promptly report to their immediate supervisor any deficiencies in the town equipment, programs, services or other property including the regular scheduled maintenance.

6.20 Administration of Discipline

Disciplinary action shall be consistent with the nature of the deficiency or violation involved and the record of the employee. Disciplinary action shall be imposed in a clear and business like manner and, as appropriate, shall be directed at improving the employee's performance and/or conduct and at avoiding recurrence of the deficiency or violation.

6.30 Disciplinary Authority

Unless otherwise provided by supplemental personnel regulations, all supervisors shall have the authority to issue oral and written reprimands to their subordinate employees. Department head level shall have the authority for other types of disciplinary action, except that suspensions without pay and dismissals shall require the prior approval of the City Administrator or Mayor. Disciplinary action other than oral reprimands shall be thoroughly documented for inclusion in the official personnel records of the employees involved.

6.40 Protective Suspension

When an employee is under investigation for a crime or official misconduct, he or she may be suspended from work with pay for the duration of the investigation or proceeding if necessary to protect the public interest. Once charged with a crime or official misconduct, the suspension may be without pay. Any return to duty shall be under such terms and conditions as may be specified by the Town, which may include reimbursement for all back pay and benefits if acquitted.

6.50 Other

In the event of willful destruction of property, restitution shall be made to the Town of Mount Carmel.

Assignments to undesirable tasks, shifts, hours of work, or any measure other than the foregoing shall not be used for disciplinary purposes.

A written record shall be kept for all disciplinary actions and proceedings, including oral reprimands, and placed in the employee's personnel file. This provision shall be strictly adhered to by all supervisory personnel. Exception: Oral reprimands may not necessarily be placed in the employee's file, but will be reported to the City Administrator in writing.

6.51 Traffic Violations While Operating City Vehicles

All employees will report to their Supervisor, who in turn will report to the Safety Committee Chairman, receipt of any traffic citation received by the employee while operating a city vehicle, whether it be issued by an officer or by photo enforcement cameras.

When the employee receives a citation he/she will be counseled by their supervisor and a copy of the citation shall be placed in their personnel file. If no additional citations are received within a year after the date of the first citation, all records will be expunged from their personnel file.

Should the employee receive another citation within the year following the first citation while operating a city vehicle, he/she will receive a written reprimand, which along with a copy of the citation, will be placed in their personnel file. The employee will be placed on probation for one year as of the date of the second violation. If no additional citations are received with a year after the date of the second citation, all records will be expunged from their personnel file.

Should any additional citations be received by the employee while operating a city vehicle, if the employee is on probation, the employee may be suspended for up to three days or terminated. Should the employee fail to report the receipt of any citation while operating a city vehicle or fail to provide documentation of such to his Supervisor within three working days, the employee will receive a written reprimand which will be placed in their personnel file, and be placed on three days suspension without pay.

CHAPTER VII **STAFFING**

7.10 Policy Statement

It is the policy of the town to seek qualified applicants and employ them to carry out the functions of the town. Each position for which applicants are sought and each position filled must have a job description that is available to the applicant/employee.

Additionally, no town official may enter into any oral or written contract or agreement with a town employee or potential town employee on behalf of the Town unless approved by the Mayor.

7.20 Announcement of Available Positions

Vacancies in positions or the creation of a new position shall be announced. Announcements may be posted in appropriate places throughout the town and may be sent to newspapers, radio stations, educational institutions, professional and vocational societies, public officials and to such other organizations and individuals as the town may deem appropriate. Announcements may include:

- A. Information concerning the time for filing applications.
- B. A description of duties and responsibilities of the position.
- C. Minimum or additional desirable qualifications.
- D. Salary or other compensation range.
- E. Such other information as will assist interested persons to understand fully the nature of the employment and the procedure necessary to apply.
- F. All town employees will be encouraged to live within the town limits, if possible.

To assure sufficient numbers of qualified applicants, the town may continue to accept applications after the originally announced filing date. If the filing date is extended, such action will be appropriately publicized.

The town may also decide to accept applications for certain positions without any closing date, in which case the announcement for the position shall so state.

7.30 Application and Examination

All applications shall be made on a form prescribed by the Recorder and shall be filed with the Recorder on or prior to the closing date specified in the announcement or postmarked before midnight of that date. All applications shall be signed and the truth of the statements contained therein certified by such signature.

The town may give examinations to establish employment and promotion lists. The tests in such examinations may be written or oral; a demonstration of skill; an evaluation of experience and education; an interview designed to determine general fitness for the position; physical tests of strength, stamina or dexterity; or a combination of these, which shall fairly appraise and determine the merit, qualification, fitness and ability of applicants. Such tests if administered, shall be practical in character and shall relate to the duties and responsibilities of the position for which the applicant is being examined and shall fairly test relative capacity and fitness of persons examined to perform the duties of the position(s) to which they seek to be appointed or promoted. An applicant may be required to possess scholastic education qualifications if the position for which he is being examined requires professional or technical knowledge, skills and abilities

7.40 Medical Examinations

Before hiring, new employees may be required to undergo a medical examination to determine physical and mental fitness to perform work in the position for which application is made. The expense of the examination will be paid by the town. Existing employees may also be required to undergo a physical examination to determine physical and mental fitness to continue to perform their duties. Expense of the examination will be paid by the town.

7.50 Employee Orientation

The department heads and supervisors have a duty to orient all new employees. Such orientation training includes familiarization of the duties of the position, the hours of work, relationship to other employees, safety precautions, the rights and obligations of an employee, and information about the unit or department.

7.60 Promotion

Whenever possible, vacancies will be filled by a qualified person presently employed by the town. However, the town may recruit applicants from outside the town service whenever there is reason to believe that better qualified applicants are available. Promotion within the town service shall be based upon the qualifications of the person being considered.

7.70 Probation Period

No employee will be considered to be a permanent employee until the probationary period has been satisfactorily completed. Each new or promoted employee shall be notified of his probationary status. Probationary employees receive limited benefits while on probation. Full time employees shall be offered the opportunity to enroll for health insurance benefits at the time of employment, but must complete their one hundred eighty (180) day probationary period before being considered as a permanent employee. At the end of one hundred eighty (180) days, probationary employees shall receive all other benefits as provided other employees. (As amended by the Board of Mayor and Aldermen on March 25, 2003.)

The probationary status shall begin immediately upon the first day on the job and end on the one hundred eightieth (180th) day of employment. At this time the supervisor will advise the employee as to whether or not their performance is acceptable. The employee will complete an evaluation and the supervisor and City Administrator will complete an evaluation. An adjustment in wage rate may be made by the Mayor upon the recommendation of the City Administrator or Supervisor; the town retains the right of preemptive termination of any probationary employee. A Department Head may grant an extension of the probationary period not to exceed sixty (60) days of the original probationary period with the approval of the City Administrator.

7.80 Re-Employment

An individual who is separated from the service with the town for more than thirty-one (31) days, may be re-employed by complying with all the requirements of a new employee and shall be entitled to only those benefits offered to a new employee. Exception: Former employees who leave without proper notice, or were convicted of a felony will not be considered for re-employment.

7.90 Drug Testing

The Town of Mount Carmel is concerned about the safety of its citizens and its workers. The town drug testing policy will be available to all employees. (See Resolution No. 87).

7.91 Driver's Licenses

Every employee who is required to have a driver's license is required to notify the City Recorder of any change in the status of that license. The City Recorder shall check the status of licensed operators with the Department of Safety every six months. Employees are strictly prohibited from operating any Town vehicle or equipment that would require an operator's license, unless the employee has a current license to operate the vehicle or equipment. (as added by Ord. #13-398, August 2013)

7.92 Use of Town Vehicles and Equipment

All Town vehicles and equipment are for official use only. No person other than a Town employee may operate a town vehicle or piece of machinery. Drivers and/or operators must have a valid Tennessee driver's license and be approved by the Mayor. (as added by Ord. #13-398, August 2013)

7.100 Employment of Relatives

Immediate family members will not be considered for employment with the town. Relatives of employees may be employed by the town as long as they are working in different departments, present exceptions accepted.

No supervisor shall supervise his or her immediate family members.

No member of an immediate family, including spouse, mother or stepmother, father or stepfather, children, sister, brother, grandparents, current mother-in-law or current father-in-law, step-grandparents, grandparents-in-law, and grandchildren, shall be employed in such capacity as to have one directly supervised by the other. This does not preclude employment of immediate family member under other lines of supervision.

That in carrying out the Mayor's duties pursuant to Tenn. Code Anno. §6-3-106(b)(2)(A), in employing, promoting, disciplining, suspending and discharging all employees and department heads, in accordance with the PERSONNEL POLICIES AND PROCEDURES adopted by the Board of Mayor and Aldermen, the Mayor shall submit the employment or

promotion, but not the discipline, suspension and discharge, of a member of the immediate family of an existing employee for confirmation by the Board of Mayor and Aldermen. In confirming or denying the employment the Board shall consider the specific benefit to the Town; the specific qualifications of the candidate for employment or promotion; the line of supervision; and any other similar factor affecting the interest of the Town.

7.110 Physical Standards for Employment

By the nature of the work required, all job descriptions with the Town of Mount Carmel shall outline the physical qualifications to perform the work required.

7.120 Emergency Employment

If any emergency arises the City Administrator or the Mayor may, without complying with the provisions of the personnel rules concerning regular employment, employ such persons as are necessary to meet the emergency.

7.130 Pay Rates in Demotion

The rates of pay for any demoted employee shall be determined as follows:

- A. If the rate of pay in the higher position is higher than the rate of pay for the position to which demoted, the rate of pay shall be reduced to the rate of pay in the lower position.
- B. If the rate of pay in the higher position falls within the range of the position to which demoted, the rate of pay shall remain unchanged.

7.140 Employee Training

- A. Employees are encouraged to participate in conferences, conventions and meetings that have a direct relationship to the employees' position and the town services. Employees shall be considered for training programs, conventions, etc. on an annual basis. Department heads shall determine training needs on an annual basis and can include formal classes, seminars, workshops, reading material, videotapes and other methods available. Approval for attendance at such conferences, conventions and meetings shall be obtained from the department head and Town Administrator.

- B. As a condition of approval for extensive specialized training for any employee, that employee shall be required to reimburse the Town for the costs and expenses advanced or paid on behalf of the employee attendant to such training.
- C. Extensive specialized training shall include, but not be limited to, Police, Fire and Wastewater Operator certification.
- D. The procedure for reimbursement shall include the execution of a written agreement by the employee setting forth the terms for such reimbursement, which terms for such reimbursement, which terms shall include a provision for the *pro rata* reduction of the reimbursement obligation by 1/24 for each month worked by the employee after completion of the training.
- E. Any portion of the reimbursement obligation which remains unpaid at the time an employee discontinues their employment may be deducted from any final salary and benefits payment to the employee upon separation.

7.150 Layoff, Termination, and/or Resignation

Return of property - when an employee leaves the employment of the Town of Mount Carmel, they will be required to return their keys, personnel policy, equipment, etc. issued to them before receiving their final paycheck.

Layoff - The department head, with approval of the City Administrator or Mayor, may lay off any employee because of a reduction in required personnel, because of a lack of work within the department, re-organization of a department or town function, a shortage of funds or materials and/or completion of a project.

Employees laid off shall receive one week's notice.

Consideration: multiple job skills, most recent performance appraisal, knowledge, skills, abilities, attitude, disciplinary action. Employees laid off have no priority on re-hiring.

7.160 Garnishments

An assignment or garnishment of a portion of an employee's compensation is an inconvenient and unnecessary administrative expense to the town. The town may take such disciplinary steps, including dismissal, as are legally allowed and appropriate in the particular matter.

CHAPTER VIII

PERFORMANCE EVALUATION

8.10 Performance Evaluation Process

The system of performance appraisal may be used for purposes of promotion, dismissal, demotion, reductions in force, and re-in statement, as well s to keep employees advised of what is expected of them and how well they are meeting these expectations.

Performance appraisals may be governed by the following:

- A. The appraisal of work performance provides recognition for effective performance and identifies aspects of performance that could be improved.
- B. Performance appraisal is a continuing responsibility of all supervisors, and supervisors shall discuss performance informally with each employee as often as necessary to insure effective performance throughout the year.
- C. Each supervisor may discuss with the employee his overall work performance at least once in each 12 calendar months for the purpose of informing the employees of the caliber of his work, helping the employee recognize areas where performance could be improved and developing with the employee a plan for accomplishing such improvements.
- D. Complaints on performance appraisals on the basis of abuse, harassment, or discrimination, are subject to the Complaint procedure described in Chapter V.
- E. Each employee shall be given a copy of the written appraisal governing his own performance, and the original will be placed in his permanent personnel file.

8.20 Frequency of reports

Annual performance reports shall be prepared each June on all permanent employees.

8.30 Review of Performance Report

- (1) The superior shall sign the report.
- (2) The superior shall discuss the report with the employee being rated, pointing out obvious weaknesses and strong points.
- (3) The employee being rated shall indicate by signature that the report has been discussed with said employee. Signature of employee does not imply agreement with the report. If the

employee desires, he may submit a written statement that shall be attached to the report and becomes a permanent part thereof.

- (4) All reports will finally be reviewed by the City Administrator and Mayor.

8.40 Records to be Maintained

The Recorder is the official custodian of all Town records and shall maintain the following records which may be used when preparing performance reports:

- A. Individual vacation and sick leave record.
- B. Copy of each position description form.
- C. Copy of each performance report.
- D. Copy of any corrective and/or disciplinary action correspondence.
- E. Copy of suspension notices.
- F. Copy of any favorable communications including evidence of self-improvement efforts.
- G. Copy of unfavorable communications.
- H. Copy of in-service training records.
- I. Copies of time sheets.
- J. Copy of employee license number and driving record.

8.50 Maintenance of Records

All personnel records and files shall be retained to satisfy state and federal requirements and Mount Carmel Code, Title 1, Chapter 5, "Document and Record Retention."

8.60 Public Review of Records

The inspection of personnel records shall be subject to Tenn. Code Anno. § 10-7-503.

8.70 Employee Performance

No supervisor, employee or town official, shall provide references on current or former employees without (1) a written release from the current or former employee and (2) a written form letter from the prospective employer. No references will be given by telephone.

CHAPTER IX
POLITICAL ACTIVITY, ETHICS AND CONDUCT

9.10 Political Activity

Every employee of the Town shall enjoy the same rights of other citizens of Tennessee to be a candidate for any state or local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities; provided, that the city is not required to pay the employee's salary for work not performed for the governmental entity; and provided further, that unless otherwise authorized by law or local ordinance, an employee of a municipal government shall not be qualified to run for elected office in the local governing body of such local governmental unit in which the employee is employed. (Tenn. Code Anno. section 7-15-1501.)

9.20 Ethics

Acceptance of gratuities. No municipal officer or employee shall accept any money or other consideration or favor from anyone other than the town for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to town business.

9.30 Outside Employment

No full-time officer or employee of the city shall accept or continue any outside employment if the work interferes with the satisfactory performance of the officer's or employee's duties. In addition, no such employee shall then accept or continue any outside employment if the work is incompatible with his city employment, or is likely to cast discredit upon or create embarrassment for the city.

9.40 Termination, Accountability and Disclosure Act

All employees are responsible for disclosing conflicts of interest. This could include, but is not limited to, the hiring of immediate family members, using confidential information to obtain financial gain, the use of town personnel, resources, property, supplies or funds for personal use or gain or entering into certain contracts without having an open bidding process and voting on issues where personal gain is involved.

9.50 Use of Municipal Time, Facilities, etc.

No municipal officer or employee shall use or authorize the use of municipal time, facilities, equipment, or supplies such as, but not limited to private use of town vehicles, personal telephone calls, copies, internet service, etc. for private gain or advantage to himself or any other private person or group. Provided, however, that his prohibition shall not apply where the board of mayor and aldermen has authorized the use of such time, facilities, equipment, or supplies, and the town is paid at such rates as are normally charged by private sources for compatible services.

9.60 Use of Position

No municipal officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the town, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others.

**TOWN OF MOUNT CARMEL
PERSONNEL POLICIES AND PROCEDURES**

This manual is the property of the Town of Mount Carmel, Tennessee.

MANUAL NO. _____

The employee to whom this manual is issued is responsible for its care and good condition and for inserting supplements and making corrections necessary to keep it current. Also, the employee is required to know and understand this manual and accept appropriate discipline if the manual is not followed. Whenever there is doubt as to the meaning or intent of a rule, policy, or procedure, the employee shall seek an interpretation or explanation.

The manual is official town property issued to employees. It must be returned in good condition when the employee leaves the town service.

If found, please return to the Town of Mount Carmel, Tennessee.

I have read the foregoing Town of Mount Carmel, Tennessee, Personnel Policies and Procedures Manual, have been given the opportunity to ask any questions about its content, understand its terms, and agree to abide by its terms.

Issued to: _____

Date: _____

Signature of employee receiving this manual: _____

APPENDIX C

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR THE EMPLOYEES OF THE TOWN OF MOUNT CARMEL

- I. Purpose and coverage.
- II. Definitions.
- III. Employer's rights and duties.
- IV. Employee's rights and duties.
- V. Administration.
- VI. Standards authorized.
- VII. Variance procedure.
- VIII. Recordkeeping and reporting.
- IX. Employee complaint procedure.
- X. Education and training.
- XI. General inspection procedures.
- XII. Imminent danger procedures.
- XIII. Abatement orders and hearings.
- XIV. Penalties.
- XV. Confidentiality of privileged information.
- XVI. Compliance with other laws not excused.
- XVI. Discrimination investigations and sanctions.
- XVII. Compliance with other laws not excused.

APPENDICES

- I. Work locations.
- II. Notice to all employees.
- III. Program plan budget.
- IV. Accident reporting procedures.

I. PURPOSE AND COVERAGE.

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the Town of Mount Carmel.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Town of Mount Carmel in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees:

- a. Provide a safe and healthful place and condition of employment.

- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. DEFINITIONS.

For the purposes of this Program Plan, the following definitions apply:

- a. "Commissioner of Labor and Workforce Development" means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

- b. "Employer" means the Town of Mount Carmel and includes each administrative department, board, commission, division, or other agency of the Town of Mount Carmel.
- c. "Safety director of occupational safety and health" or "safety director" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of the Town of Mount Carmel.
- d. "Inspector(s)" means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.
- e. "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.
- f. "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. "Person" means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. "Standard" means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- i. "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.

- k. "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced; or
 - 2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- l. "Act or "TOSH Act" shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. "Governing body" means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. "Chief executive officer" means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYER'S RIGHTS AND DUTIES.

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from an unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist

the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.

- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this Program Plan are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this Program Plan.

IV. EMPLOYEE'S RIGHTS AND DUTIES.

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce

Development or whoever is responsible for the promulgation of the standard or the granting of the variance.

- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION.

- a. The Safety Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.

1. The safety director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
 2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
 3. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.
 4. The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
 5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 6. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 9. The Safety Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.
1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving

occupational safety and health employees as set forth in this plan.

2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.
3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Director along with his findings and/or recommendations in accordance with Appendix IV of this plan.

VI. STANDARDS AUTHORIZED.

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 C.F.R. 1910 General Industry Regulations; 29 C.F.R. 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health. Chapter 0800-01-1 through Chapter 0800-01-11 are the standards and rules invoked.

VII. VARIANCE PROCEDURE.

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development. The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.

2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
1. The employer
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has as effective Program Plan for coming into compliance with the standard as quickly as possible.
 2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.

- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING.

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Record keeping from the internet. Go to www.osha.gov and click on Record keeping Forms on the home page.

The position responsible for record keeping is shown on the Safety and Health Organizational Chart, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Occupational Safety and Health Record-Keeping and Reporting, Chapter 0800-01-03, as authorized by T.C.A., Title 50.

IX. EMPLOYEE COMPLAINT PROCEDURE.

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Director of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section I of this plan).

- b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING.

- a. Safety Director and/or Compliance Inspector(s):
 - 1. Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.

2. Access will be made to reference materials such as 29 C.F.R. 1910 General Industry Regulations; 29 C.F.R. 1926 Construction Industry Regulations; the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to,

- storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.
- ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES.

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this Ordinance, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and

to question privately any supervisor, operator, agent, or employee working therein.

- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Director or Inspector during the physical inspections of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a fully and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections
 - 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
 - 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
 - 2. Records are mad of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.

- i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES.

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 1. The Safety Director shall immediately be informed of the alleged danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.

6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
 1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and Chief Executive Officer immediately.
 2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS.

- a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:
 1. Issue an abatement order to the head of the worksite.
 2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
 1. The standard, rule, or regulation which was found to be violated.
 2. A description of the nature and location of the violation.
 3. A description of what is required to abate or correct the violation.
 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days,

issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES.

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 1. Oral reprimand.
 2. Written reprimand.
 3. Suspension for three (3) or more working days.
 4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION.

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS.

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Discrimination Against Employees Exercising Rights Under the Occupational Safety and Health Act of 1972 0800-01-08, as authorized by T.C.A. Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann. § 50-3-409 can file a complaint with their agency/safety Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the

Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED.

- a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this Program Plan.
- b. Compliance with any provisions of this Program Plan or any standard rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

Signature: Safety Director, Occupational Safety and Health 3/26/13
Date

**APPENDIX - I WORK LOCATIONS
(ORGANIZATIONAL CHART)**

City Hall - 6 employees
100 Main Street
Mount Carmel, TN 37645
(423) 357-7311

Police Department - 10 employees
211 Hammond Ave.
Mount Carmel, TN 37645
(423) 357-9019

Animal Control - 1 employee
118 Seminole Drive
Mount Carmel, TN 37645
(423) 357-765-6454

Library - 2 employees
100 1/2 Main Street
Mount Carmel, TN 37645
(423) 357-4011

Fire Department - 1 employee
211 Hammond Ave.
Mount Carmel, TN 37645
(423) 357-1013

Public Works - 6 employees
201 Hammond Ave.
Mount Carmel, TN 37645
(423) 357-6051

Sewer Department - 4 employees
116 Seminole Dr.
Mount Carmel, TN 37645
(423) 357-8100

TOTAL NUMBER OF EMPLOYEES: 30

APPENDIX - II NOTICE TO ALL EMPLOYEES

NOTICE TO ALL EMPLOYEES OF THE TOWN OF MOUNT CARMEL

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Program Plan which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Director or Mayor.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this Program Plan.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the Board of Mayor and Aldermen for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of the Town of Mount Carmel is available for inspected by an employee at during regular office hours.

ADOPTED this the 26th day of March, 2013.

LARRY FROST, Mayor

ATTEST:

MARIAN SUNDRIDGE, Recorder

APPENDIX - III PROGRAM PLAN BUDGET

(Either answer questions 1-11 or fill in the statement below)

1. Prorated portion of wages, salaries, etc., for program administration and support.
2. Office space and office supplies.
3. Safety and health educational materials and support for education and training.
4. Safety devices for personnel safety and health.
5. Equipment modifications.
6. Equipment additions (facilities).
7. Protective clothing and equipment (personnel).
8. Safety and health instruments.
9. Funding for projects to correct hazardous conditions.
10. Reserve fund for the Program Plan.
11. Contingencies and miscellaneous.

TOTAL ESTIMATED PROGRAM PLAN FUNDING,

ESTIMATE OF TOTAL BUDGET FOR: **\$5,550.00**

APPENDIX - IV ACCIDENT REPORTING PROCEDURES

(1-15) Employees shall report all accidents, injuries, or illnesses directly to the Safety Director as soon as possible, but not later than twenty-four (24) hours after the occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Safety Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.

(16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after the occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Safety Director and/or keeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.

(51-250) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Director and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the record keeper.

(251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree

burns, the Safety Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for record keeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such a one of those listed above or similar information is necessary to satisfy Item Number 4 listed under PROGRAM PLAN in Section V. ADMINISTRATION, Part b of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.).

Generally, the more simple an accident reporting procedure is, the more efficient it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.