

TITLE 4

MUNICIPAL PERSONNEL

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CHAPTER 1

SOCIAL SECURITY--TOWN PERSONNEL

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4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the Town of Bluff City to provide for all eligible employees and officials of the town, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations. (1980 Code, § 1-601)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1980 Code, § 1-602)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1980 Code, § 1-603)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1980 Code, § 1-604)

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CHAPTER 2

PERSONNEL REGULATIONS

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4-201. Definitions. As used in these rules the following words and terms shall have the meaning listed:

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

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

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

(4) "Department." The primary organizational unit which is under the immediate charge of a department head who reports directly to the town manager or board of mayor and aldermen.

(5) "Dismissal." A type of disciplinary action which separates an employee from the payroll.

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

(7) "Full-time employees." Individuals who work the equivalent of forty (40) hours or more per week.

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

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

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

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

(12) "Officer." Anyone who has independent discretionary judgment.

(13) "Overtime pay." Compensation paid to an employee for overtime work performed in accordance with these rules.

(14) "Seniority." Length of service as a regular employee in the classified service.

(15) "Sick leave." An absence approved by the department head or supervisor due to non-occupational illness or injury.

(16) "Supervisor." Any individual having authority on behalf of the municipality to assign, direct, or discipline other employees, if the exercise of such authority is not a mere routine or clerical nature, but requires the use of independent judgment.

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

(18) "Town manager." The town manager as appointed by the board of mayor and aldermen. In the absence of a town manager the mayor shall assume the duties of the town manager.

(19) "Work day" or "work period". Scheduled number of hours an employee is required to work per day or per scheduled number of days. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-202. Coverage. These rules shall apply only to the classified service unless otherwise specifically provided or necessarily implied. The classified service shall include all full-time positions which are not specifically placed in the exempt service. The exempt service shall include the following:

- (1) All elected officials and persons appointed to fill vacancies in elective offices.
- (2) All members of appointive boards, commissions, or committees.
- (3) The city attorney and the town manager (note: the town manager shall be considered an at-will employee, serving at the will and pleasure of the board of mayor and aldermen, and shall not have any property right in his/her position).
- (4) Consultants, advisors, and counsel rendering temporary professional service.
- (5) Independent contractors.
- (6) Temporary employees who are hired to meet the immediate requirements of an emergency condition.
- (7) Seasonal employees who are employed for not more than three (3) months during the fiscal year.
- (8) Persons rendering part-time service.
- (9) Volunteer personnel, such as volunteer firefighters; and all other personnel appointed to serve without compensation. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-203. Recruitment. Individuals shall be recruited in a manner to assure obtaining well-qualified applicants for the various types of positions.

(1) Policy statement. The primary objective of this hiring policy is to insure compliance with the laws and to obtain qualified personnel to serve the citizens of the city. Appointments to positions are based on merit, technical knowledge and work experience and no person shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of race, sex, age, color, religion, creed, ancestry, disability status or national origin.

(2) Recruitment. The city will employ only capable and responsible personnel who are of good character and reputation. When a vacancy occurs the town manager, in cooperation with the respective department head, will prepare and place notice of the position vacancy.

(3) Application process. All persons seeking employment with the city shall complete a standard application form as provided by the city. Applications for employment are only accepted when a position has been advertised, and then shall be accepted in the city business office during regular office hours. The town manager will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations.

(4) Medical/agility examination. For certain positions, the employee may be required to undergo a physical agility examination in order to determine

the employees ability to perform the essential functions of the job. The town manager or appropriate department head will make reasonable accommodations in the physical agility exam to applicants with disabilities making a request for such accommodations.

After a job offer has been made, prospective employees in certain classes may be required to undergo a medical examination by a competent examiner designated by the city. Medical examinations shall be at no expense to the employee.

(5) Appointments. Appointments shall be made by the town manager (or in his/her absence, the mayor) or in the case of the town manager, town recorder, chief of police, and town attorney, by the board of mayor and aldermen from those applicants who have been determined to have the required qualifications. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-204. Transfers. Any employee who has successfully completed the probationary period may be transferred to the same or similar position in a different department without being subject to a probationary period. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-205. Compensation. (1) Wages. Wages for all employees shall be determined by the board of mayor and aldermen.

(2) Meal periods. If an employee works five hours or more per shift, he or she must take a 30 minute meal break unless specifically excused by his/her immediate supervisor. This does not apply to police officers or dispatchers. Meal breaks are not considered as hours worked.

(3) Work week / work periods. Pursuant to the Fair Labor Standards Act, an employee work period is a regular recurring period of 168 hours consisting of seven consecutive 24-hour periods. Except as provided in special contracts of employment, public safety employees working under the FLSA 7(k) exemption and employees exempt from FLSA requirements, employees work 40 hours during the work period. The work period begins at 12:00 midnight on Tuesday and ends at 12:00 midnight the Tuesday following. Work schedules may vary in departments as necessary for the smooth operation of the city.

Police officers shall have a 28 day work period in accordance with the 7(k) exemption provided under FLSA. Overtime will be paid to police officers who work more than one hundred seventy-one (171) hours during the twenty-eight (28) day work period. The work period begins at 12:00 midnight on Tuesday and ends at 12:00 midnight twenty-eight (28) days following.

(4) Overtime. Overtime may be authorized only by prior approval of the town manager or his/her designee, except in cases of emergency. Employees required to work overtime shall be compensated in accordance with the Fair Labor Standards Act.

(5) Emergency call out supplement. Each employee who is called out in addition to their regular work schedule for an emergency shall receive a twenty dollar (\$20.00) supplement per call out. This will only apply to employees who are compensated by the hour in accordance with Fair Labor Standards Act. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001, and amended by Ord. #2004-007, Aug. 2004, Ord. #2004-014, Nov. 2004, and Ord. #2005-014, Nov. 2005)

4-206. Attendance. An employee shall be in attendance at regular work in accordance with these rules and with general department regulations. All departments shall keep daily attendance records of their employees. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-207. Acceptance of gratuities. No municipal officer or employee shall accept any money or other consideration or favor from anyone other than the city 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 city business. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-208. Business dealings. Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the city. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-209. Outside employment. No full-time officer or employee of the city shall accept any outside employment without written authorization from the mayor. The mayor shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the city. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-210. Political activity. Town employees may individually exercise their right to vote and express their political views as citizens. However, employees may not engage in any political activity while at work. Employees may not run for election to the board of mayor and aldermen. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-211. Use of municipal time, facilities, etc. No municipal officer or employee shall use or authorize the use of municipal time, facilities, equipment,

or supplies for private gain or advantage to himself or any other private person or group. Provided, however, that this prohibition shall not apply where the board of mayor and aldermen has authorized the use of such time, facilities, equipment, or supplies, and the city is paid at such rates as are normally charged by private sources for comparable services. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-212. 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 City of Bluff City, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-213. Strikes and unions. No city officer or employee shall participate in any strike against the City of Bluff City, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorized the use of strikes by government employees. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-214. Holiday leave. The following legal holidays shall be observed: New Year's Day, Martin Luther King Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Good Friday, Veteran's Day, two (2) Thanksgiving Days, two (2) Christmas Days, and such other days as may be designated by the board of mayor and aldermen.

Where possible, every city employee shall be given approved holidays as set out in this section. When an employee must work on one of these holidays the employee will receive double pay for time worked. Department heads shall attempt to arrange working schedules to permit time off for holidays in preference to extra pay. Holiday leave shall not be counted as time worked for the purpose of computing overtime during a work period. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001, and amended by Ord. #2012-004, March 2012)

4-215. Vacation leave. All permanent full-time employees who have been continuously employed for a period of six (6) months shall be given one (1) week of vacation leave. All permanent full-time employees who have been continuously employed for a period of between six (6) months and up to and including five (5) years shall be given two (2) weeks of vacation leave each year. All permanent full-time employees who have been continuously employed for a period of more than five (5) years shall be given three (3) weeks of vacation leave each year. All permanent full-time employees who have been employed for a period of fifteen (15) years or more shall be given four (4) weeks of vacation leave each year.

All permanent part-time employees who are normally scheduled to work at least 24 hours per week shall be given three (3) days of vacation leave each year.

Employees shall accrue vacation leave from their employment date. Vacation leave may be taken as earned subject to the approval of the mayor or such other officer as he may designate.

Employees may not accrue more than four (4) weeks of vacation leave at any time.

Employees resigning voluntarily and who give at least two weeks notice of intention to resign will receive vacation credit earned as of the date of resignation.

A record shall be kept, for each officer and employee, up to date at all times showing vacation leave taken. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-216. Personal leave. Each permanent full-time employee shall be given three (3) personal leave days for each full year of employment. Personal leave days may be taken subject to the approval of the mayor or such other officer as he may designate.

Employees may not accrue personal leave days from year to year. Such days shall be taken within the year following that in which they are earned or they shall be forfeited.

Employees resigning voluntarily and who give at least two weeks notice of intention to resign will receive credit for personal leave days earned as of the date of resignation. (as added by Ord. #2001-009, Nov. 2001)

4-217. Sick leave. Each permanent full-time employee shall accumulate sick leave at the rate of ½ day for each month of service, or six (6) days per year.

No payment will be made for accrued sick leave upon separation.

Sick leave with pay shall be granted for the following reasons: personal illness or physical incapacity resulting from causes beyond the employee's control. Up to 3 sick days may be used for an illness with the employee's spouse, children, mother or father.

In order to be granted sick leave with pay, an employee must notify the town manager or his/her designee at least ½ hour after the beginning of the scheduled work day of the reason for absence. A medical statement signed by a licensed physician will be required if the period of absence is three consecutive days.

Sick leave with pay may be taken as necessary, but may not be extended beyond the actual number of sick days at the time of absence. Provided, however, that at the request of the employee any accrued vacation balance may be applied and extended as though it were sick leave. Sick leave shall not be counted as time worked for the purpose of computing overtime during a work period. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-218. Bereavement leave. Each permanent full-time employee shall be given three (3) days bereavement leave with pay for the death of a person in the immediate family of the employee. (as added by Ord. #2001-009, Nov. 2001)

4-219. Occupational disability or injury leave. Occupational disability or injury leave shall be granted employees who sustain an injury or an illness during the course of their employment which is determined to be compensable under the provisions of the Worker's Compensation Law.

Employees on occupational disability leave shall receive such benefits in lieu of pay as are provided by the Worker's Compensation Law. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-220. Leave without pay. A regular employee may be granted a leave of absence without pay for a period not to exceed one year for temporary sickness, disability, or for other good and sufficient reason, or upon written advice of doctor with medical prognosis of patient. Such leave shall require the prior approval of the town manager. Any such leave is subject to review by the town manager periodically to ascertain that leave is still justified. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-221. Prohibitions. No person shall be appointed to, or promoted to, or demoted, or dismissed from any position in the classified service, or in any way be favored or discriminated against with respect to employment in the classified service because of race, religion, national origin, political affiliation, disability, sex, or age.

No person shall seek or attempt to use any political endorsement in connection with any appointment to a position, or demotion, or dismissal from a position in the classified service.

No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or to attempt to secure for any person an appointment to a position in the classified service, or any increase in wages or other advantage in employment in such position, for the purpose of influencing the vote or political action of any person, or for any other consideration.

No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment or promotion, or any advantage in a position in the classified service. (as replaced by Ord. #2001-009, Nov. 2001)

4-222. Separations. All separations of employees from positions in the classified service shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, lay-off, disability (inability to perform the essential functions of the job with or without reasonable

accommodations), death, and dismissal. At the time of separation and prior to final payment, all records, equipment, and other items of city property in the employee's custody shall be transferred to the department head. Any amount due to a shortage in the above shall be withheld from the employee's final compensation.

(1) Resignation. An employee may resign by submitting in writing the reasons and the effective date, to his/her department head as far in advance as possible, but a minimum of two weeks notice is requested. Unauthorized absence from work for a period of three consecutive days may be considered by the department head as a resignation. Department heads shall forward all notices of resignation to the town manager immediately upon receipt.

(2) Lay-off. The town manager may lay-off any employee when he/she deems it necessary by reason of shortage of funds or work, the abolition of a position, or other material changes in the duties or organization, or for related reasons which are outside the employee's control and which do not reflect discredit upon service of the employee. Temporary employees shall be laid off prior to probationary or regular employees. The order of lay-off shall be in reverse order.

(3) Disability. An employee may be separated for disability when unable to perform the essential functions of the job because of a physical or mental impairment which cannot be reasonably accommodated by the city without undue hardship. Action may be initiated by the employee or the city, but in all cases it may be supported by medical evidence acceptable to the town manager. The municipality may require an examination at its expense and performed by a licensed physician of its choice.

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

(5) Dismissal. The town manager may dismiss an employee for just cause that is good for the city service. Reasons for dismissal may include, but are not limited to, misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records, violation of any of the provisions of the charter, ordinances, or these rules.

When the decision to dismiss an employee has been reached, the employee shall be furnished an advance written notice containing the nature of the proposed action, the reasons therefore, and the right to a hearing. The notice shall include notice of a time and place for the hearing. The notice shall be delivered to the employee in person, or mailed to him/her at his last known address by registered or certified United States Mail, by any authorized agent of the board or of the town manager, at least ten (10) days prior to the date of the hearing.

If the board of mayor and aldermen has the appointment and removal power over the officer or employee, the hearing shall be before the board. If the

town manager has the appointment and removal power over the officer or employee, the hearing shall be before the town manager. The hearing shall be a public hearing and the accused shall have the right to be represented by counsel, and to call witnesses in his/her behalf. However, technical niceties of pleadings and the rules of evidence shall not apply in such hearings. The decision of the board, or the town manager, whichever the case may be, shall be final except for appeals to the courts. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-223. Disciplinary action. Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the town manager, or supervisor shall inform the employee of such lapses. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. The types of disciplinary actions are:

(1) **Oral reprimand.** The town manager or supervisor will place a memo in the employee's file stating the date of the oral reprimand, what was said to the employee, and the employee's response.

(2) **Written reprimand.** A written reprimand may be sent to the employee and a copy shall be placed in the employee's personnel folder.

(3) **Suspension.** An employee may be suspended with or without pay. A written notice of the suspension and the reasons therefore shall be given to the employee and placed in the employee's file.

(4) **Demotion/dismissal.** The right to a hearing for just cause shall be provided to the employee in the case of dismissal, as described in § 4-222(5). (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-224. Grievance procedure. The purpose of this section is to prescribe uniform disposition procedures of grievances presented by individual employees. A grievance is a written question, disagreement, or misunderstanding concerning administrative orders involving only the employee's work area, reasonable accommodations under the Americans with Disabilities Act, physical facilities, unsafe equipment, or unsafe material used. The grievance must be submitted within five (5) working days of the incident causing the grievance.

Employees must remember that there is no grievance until the supervisor or other appropriate person has been made aware of the dissatisfaction by written notice. Once this is done, the following steps are to be taken:

Step 1. Discuss the problem with the supervisor. If satisfaction is not obtained, the grievance is advanced to the second step.

- Step 2. Discuss the problem with the appropriate department head (if applicable). If the grievance is not resolved, it is advanced to the third step along with all documentation.
- Step 3. Discuss the problem with the town manager. The town manager's decision is the last and final step in the process. The decision of the town manager is final and binding to all parties involved. (as added by Ord. #2001-009, Nov. 2001)

4-225. Drug and alcohol policy. (1) Notice. The City of Bluff City has a legal responsibility and management obligation to ensure a safe work environment, as well as paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to perform their assigned duties. There is sufficient evidence to conclude that the use of illegal drugs/alcohol, drug/alcohol dependence and drug/alcohol abuse seriously impair an employee's performance and general physical and mental health. The illegal possession and use of drugs, alcohol and/or narcotics by employees of the city is a crime in this jurisdiction and clearly unacceptable. Employees must be free from drug or alcohol dependence, illegal drug use, or drug/alcohol abuse.

(2) General rules. (a) Employees shall not take or be under the influence of any narcotics or dangerous substance unless prescribed by the employee's licensed physician. The employee shall immediately notify his/her supervisor if such is prescribed, and if the consumption of such is expected to affect the proper performance of the employee's job.

(b) Employees are prohibited from the use, possession and sale of drugs, alcohol or any other controlled substance.

(c) All property belonging to the city is subject to inspection at any time without notice as there is no expectation of privacy.

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

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

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

(3) Drug and alcohol testing policy. The City of Bluff City has a Drug and Alcohol Testing Policy which is herein referred to by reference. All employees are expected to abide by the contents of the policy. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-226. Trip/travel reimbursement. All trips that involve reimbursement and/or city expense shall not be undertaken without prior approval of the mayor or town manager. The city's official travel policy, herein

incorporated by reference, shall apply to all travel. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-227 Sexual harassment. Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct by women toward women. Consequently, this policy applies to all officers and employees of the City of Bluff City, including but not limited to, full and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulation of the city, and employees working under contract for the city.

Sexual harassment or unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises in return for submission to sexual favors; making inappropriate sex-oriented comments on appearance; telling embarrassing sex-oriented stories; displaying sexually explicit or pornographic material, no matter how it is displayed; or sexual assault on the job by supervisors, fellow employees, or on occasion, non-employees when any of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracting, or unreasonably interferes with work performance is an unlawful employment practice and is absolutely prohibited by the city.

The city will not tolerate the sexual harassment of its employees. The city will take immediate, positive steps to stop it when it occurs. An employee who feels he/she is being subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

- (1) The employee's supervisor.
- (2) The employee's department head.
- (3) The town manager.
- (4) The mayor.

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

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

(e) Whether the employee has previously reported the harassment and, if so, when and to whom. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-228. Police training reimbursement. New employees of the police department shall sign and abide by a training reimbursement agreement. The agreement will provide a reimbursement from the employee to the city so that the city will recover all or part of the cost of training the new employee in the event the employee voluntarily resigns employment within a specified period of time. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-229. Special note. These personnel policies are believed to be written within the framework of the Charter of the City of Bluff City, but in case of conflict, the charter takes precedence. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-230. Amendment of personnel rules. Amendments or revisions to these rules may be recommended for adoption by the mayor or by any member of the board of mayor and aldermen. Such amendments or revisions of these rules shall become effective upon adoption by a majority vote of the governing body by ordinance. (Ord. #96-006, Nov. 1996, as replaced by Ord. #2001-009, Nov. 2001)

4-231. Police officers - fitness for duty. All employees of the police department shall, during their employment, be required to undergo periodic examinations to determine their physical and mental fitness to continue to perform the work of their positions. This examination shall also include a drug and alcohol test. This periodic examination shall be at no expense to the employee. Determination of physical or mental fitness will be made by a physician designated by the city. When a police department employee is reported by the examining physician to be physically or mentally unfit to perform work in the position for which he/she is employed, the employee may, within ten (10) days from the date of his/her notification of such determination, indicate in writing to the mayor, his/her intention to submit the question of his/her physical or mental unfitness to a physician of his/her own choice.

In the event there is a difference of opinion between the examining physician designated by the city and the physician chosen by the employee, a third physician shall be mutually agreed upon and designated by both physicians. The third physician's decision shall be final and binding as to the physical or mental fitness of the employee. The city shall pay its physician, the employee shall pay his/her physician, and the third physician shall be paid 50% by the city and 50% by the employee.

The drug and alcohol-testing component of the periodic examination shall be made in accordance with the provisions of the city's drug and alcohol policy. The results of a positive test shall be subject to the provisions of the same policy.

Police department employees determined to be physically or mentally unfit to continue in their positions may be demoted according to these rules, or they may be separated from the city service only after it has been determined that they:

- (1) Cannot perform the essential functions of their position;
- (2) Pose a direct threat to themselves and/or others;
- (3) Are unable to perform the essential functions due to a temporary condition or disability not protected by the ADA; or
- (4) Have a positive result on the drug or alcohol component of the examination. (as added by Ord. #2004-007, Aug. 2004)

4-232. Police officers--off duty employment. The following is the policy governing off-duty employment by police officers:

(1) All requests for off-duty employment shall be routed through the chief of police and prior approval shall be required by the town manager before entering into an agreement for, or engaging in, off-duty employment.

(2) No officers may work in police/security related off-duty employment prior to completion of the basic training course required by the State of Tennessee and have completed any required basic training by the department.

(3) The chief of police shall maintain a roster of any officer desiring off-duty employment and authorized by the department for off-duty employment assignments. The chief of police shall make the assignments for off-duty employment once approval has been gained from the town manager.

(4) The town shall require the police officer to provide the town with a written description of the task that will be performed during the off-duty employment activities.

(5) The chief of police shall maintain a current list of off-duty employers which are utilizing officers from the town. The list shall include business or other names of employer, location the officer is involved in the employment at that location and the hours the officer will be employed by the off-duty employer.

(6) The employees will be prohibited from engaging in the following occupations during off-duty employment activities:

- (a) Bar tending;
- (b) Taxi driver;
- (c) Bouncers;
- (d) Private investigators;
- (e) Body guards;
- (f) Polygraph examiners;
- (g) Emergency medical provider;
- (h) Private fire or codes inspector;

- (i) Male or female dancer;
- (j) Hired to repossess property.

(7) The town shall require the police officer (employee) and off-duty employer to both sign legal statements agreeing to indemnify and hold the town harmless from all claims and damages.¹

(8) Off-duty employers shall provide the town with a certificate of insurance for liability coverage for police/security-related exposures in the minimum amount of one million dollars (\$1,000,000.00). The off-duty employer shall also be required to provide a certificate of insurance showing proof of worker compensation coverage.

(9) The town will establish a maximum number of hours per week police officers can engage in off-duty employment activities.

(10) The police officer is prohibited from wearing department uniform, or using 'department weapon, badge, vehicle or other items or equipment issued the officer by the town and exercising any official police power concurrent with off-duty activities outside the town limits unless the police officer is made a special deputy by the Sullivan County Sheriff.

(11) All authorization to work off-duty employment is immediately and automatically suspended whenever the employee is:

- (a) Placed on light duty;
- (b) Relieved of duty;
- (c) Injured such that is has become impracticable or dangerous to engage in off-duty employment;
- (d) On military leave;
- (e) Scheduled for any official activity such as court, training, special events, etc.;
- (f) Unable to report for regular duty or court due to illness, or illness in the family, until they have subsequently completed a full tour of regular duty or a time period of twenty-four (24) hours has elapsed since the scheduled reporting time.
- (g) Involved in a conflict or apparent conflict of interest between on-duty and off-duty responsibilities.

(12) A complete incident report must be filed by the off-duty officer following any accident or injury to the officer or a member of the general public occurring during the course of, and within the scope of their off-duty employment. The documentation should include:

- (a) The date of the accident/injury;
- (b) The time of day;
- (c) The injured person's name, address, and phone number;
- (d) The name of the injured person's parent or guardian, if a minor child;

¹Exhibits A and B are available in the office of the city recorder.

- (e) The names and phone numbers of any witnesses; and
- (f) A complete description of the events and circumstances surrounding the accident or injury.

These incident reports should be retained on file by the chief of police.

(13) It shall be in the discretion of the town manager whether or not a police officer will be allowed to use his uniform and/or town equipment in off-duty employment. The analysis should include benefit to the town. Inside the town limits is a direct benefit. Outside the town limits could be an indirect benefit for example the races at Bristol Motor Speedway. No police officer shall use any Town equipment in off-duty employment whatsoever outside the town limits unless subsection (10) hereinabove is complied with.

(14) Any additional requirements made by federal, state and/or local regulations which place further restrictions or guidelines upon off-duty employment of police officers must be followed.

(15) In order to reduce risk exposure the provisions in this policy must be properly supervised, documented and controlled. (as added by Ord. #2006-022, Dec. 2006)

4-233. Social media use and Internet posting policy.

(1) Applicability. (a) This policy applies to every employee, whether part-time, full-time, currently employed by the town in any capacity who posts any material whether written, audio, video or otherwise on any Web site, blog or any other medium accessible via the Internet.

(b) For purposes of this policy social media is content created by individuals using accessible and scalable technologies through the Internet. Examples include: Facebook, blogs, MySpace, RSS, YouTube, Second Life, Twitter, LinkedIn, Google Wave, etc.

(2) City owned or created social media. (a) The town maintains an online presence. An employee may not characterize him or herself as representing the town, directly or indirectly, in any online posting unless pursuant to a written policy of the town or the direction of a supervisor.

(b) All town social media sites directly or indirectly representing to be an official statement of the town must be created pursuant to this policy and be approved by the city manager.

(c) The town's primary and predominant internet presence shall remain bluffcitytn.org and no other Web site, blog or social media site shall characterize itself as such.

(d) The city manager is responsible for the content and upkeep of any social media sites created pursuant to this policy.

(e) Whenever possible a social media site shall link or otherwise refer visitors to the town's main Web site.

(f) In addition to this policy all social media sites shall comply with any and every other applicable city policy including but not limited to:

- (i) Open records policy;
- (ii) Internet use policy;
- (iii) IT security policy;
- (iv) Ethics policy;
- (v) Records retention policy.

(g) A social media site is subject to Tennessee's Public Records Act¹ and Open Meetings Act² and no social media site shall be used to circumvent or otherwise in violation of these laws. All information posted on a social media site shall be a public record and subject to public inspection. All lawful records requests for information contained on a social media site shall be fulfilled by the city recorder and any employee whose assistance is necessitated. Every social media site shall contain a clear and conspicuous statement referencing the aforementioned state laws. All official postings on a social media site shall be preserved in accordance with the town's records retention schedule.

(h) A social media site shall also contain a clear and conspicuous statement that the purpose of the site is to serve as a mechanism for communication between the town and its constituents and that all postings are subject to review and deletion by the town. The following content is not allowed and will be immediately removed and may subject the poster to banishment from all city social media sites:

- (i) Comments not topically related to the particular social medium article being commented upon;
- (ii) Comments in support of or opposition to political campaigns or ballot measures;
- (iii) Profane language or content;
- (iv) Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;
- (v) Sexual content or links to sexual content;
- (vi) Solicitations of commerce;
- (vii) Conduct or encouragement of illegal activity;

¹State law reference

Tennessee Code Annotated, § 10-7-101, et seq.

²State law reference

Tennessee Code Annotated, § 8-44-101, et seq.

(viii) Information that may tend to compromise the safety or security of the public or public systems; or

(ix) Content that violates a legal ownership interest of any other party.

(i) The town will approach the use of social media tools, software, hardware and applications in a consistent, citywide manner. All new tools, software, hardware and applications must be approved by city manager.

(j) Administration of city social media sites. The city manager will maintain a list of all social media sites, including login and password information. Employees and officials will inform the administrative changes to existing sites.

The town must be able to immediately edit or remove content from social media sites.

(k) For each social media tool approved for use by the town the following documentation will be developed and adopted:

(i) Operational and use guidelines;

(ii) Standards and processes for managing accounts on social media sites;

(iii) City and departmental branding standards;

(iv) Enterprise-wide design standards;

(v) Standards for the administration of social media sites.

(3) Non-city social media sites. (a) An employee may not characterize him or herself as representing the city, directly or indirectly, in any online posting unless pursuant to a written policy of the town or the direction of a supervisor.

(b) The use of a town e-mail address, job title, official town name, seal or logo shall be deemed an attempt to represent the town in an official capacity. Other communication leading an average viewer to conclude that a posting was made in an official capacity shall also be deemed an attempt to represent the town in an official capacity.

(c) Departments have the option of allowing employees to participate in existing social networking sites as part of their job duties. Department heads may allow or disallow employee participation in any social media activities in their departments.

(d) Any postings on a non-city social media site made in an official capacity shall be subject to the Tennessee Open Records Act and the Tennessee Open Meetings Act.

(e) An employee or official posting on a social media site shall take reasonable care not to disclose any confidential information in any posting.

(f) When posting in a non-official capacity an employee or official shall take reasonable care not to identify themselves as an official or employee of the town. When the identity of an employee or official

posting on a non-city social media site is apparent, the employee or official shall clearly state that he or she is posting in a private capacity.

(4) Violation. Violation of this section can lead to an employee being disciplined up to and including termination. (as added by Ord. #2011-017, Sept. 2011)

CHAPTER 3

DRUG AND ALCOHOL TESTING POLICY

SECTION

- 4-301. Purpose.
- 4-302. Scope.
- 4-303. Consent form.
- 4-304. Compliance with substance abuse policy.
- 4-305. General rules.
- 4-306. Drug testing.
- 4-307. Alcohol testing.
- 4-308. Education and training.
- 4-309. Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result.
- 4-310. Voluntary disclosure of drug and/or alcohol use.
- 4-311. Exceptions.
- 4-312. Modification of policy.
- 4-313. Definitions.
- 4-314. Effective date.

4-301. Purpose. The Town of Bluff City recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the Town of Bluff City to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the Town of Bluff City are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the Town of Bluff City has adopted this drug and alcohol testing policy effective January 1, 1996. This policy complies with the Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra

safeguard for employees. The types of tests required are: pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random, return-to-duty, and follow-up.

It is the policy of the Town of Bluff City that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

- (1) Being on duty or performing work in or on town property while under the influence of drugs and/or alcohol;
- (2) Engaging in the manufacture, sale, distribution, use, or unauthorized possession of (illegal) drugs at any time and of alcohol while on duty or while in or on town property;
- (3) Refusing or failing a drug and/or alcohol test administered under this policy;
- (4) Providing an adulterated, altered, or substituted specimen for testing;
- (5) Use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
- (6) Use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of such legally prescribed medication before the employee goes on duty or performs any work.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the town shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work, and personal life; the town's policy regarding drugs and/or alcohol; and the availability of counseling. The city recorder has been designated as the municipal official responsible for answering questions regarding this policy and its implementation. All Town of Bluff City property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property. Property includes, but is not limited to, vehicles, desks, containers, files, and lockers. (Ord. #96-007, Nov. 1996)

4-302. Scope. Certain aspects of this policy may apply to full-time, part-time, temporary, and volunteer employees of the Town of Bluff City. The policy also applies to applicants for positions requiring a CDL and other safety

sensitive positions who have been given a conditional offer of employment from the Town of Bluff City. (Ord. #96-007, Nov. 1996)

4-303. Consent form. Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, medical review officer (MRO), (city manager), or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the town's drug and alcohol testing policy.

The consent form shall set forth the following information:

(1) The procedure for confirming and verifying an initial positive test result;

(2) The consequences of a verified positive test result; and

(3) The consequences of refusing to undergo a drug and/or alcohol test.

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system. (Ord. #96-007, Nov. 1996)

4-304. Compliance with substance abuse policy. Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire for termination. (Ord. #96-007, Nov. 1996)

4-305. General rules. These are the general rules governing the Town of Bluff City's drug and alcohol testing program:

(1) Town employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over-the-counter medications shall notify the proper supervisory personnel before the employees go on duty.

(2) Town employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on town property.

(3) All Town of Bluff City property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. Town property includes, but is not limited to, vehicles, desks, containers, files, and lockers.

(4) Any employee convicted of violating a criminal drug statute shall inform the director of his/her department of such conviction (including pleas of guilty and nolo contendere) within five days of the conviction occurring. Failure

to so inform the town subjects the employee to disciplinary action up to and including termination for the first offense. The town will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act.

(5) Employees engaged in the performance of a Housing and Urban Development (HUD) grant will be given a copy of this statement.

(6) As a condition for employment under the HUD grant, the employee will

(a) Abide by the terms of this statement; and

(b) Notify the town in writing of his or her conviction of a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.

(7) The town will notify the grant agency in writing, within ten (10) calendar days after receiving notice under item (6) above from an employee or otherwise receiving actual notice of such conviction, to provide notice, including position title, to the Director, Office of Federal Assistance, Office of Federal Assistance and Management Support, HCHB Room 6054, U. S. Department of Commerce, Washington, DC 20230. Notice shall include the identification number(s) of each affected grant.

(8) The town will take one of the following actions, within thirty (30) calendar days of receiving notice under item (6) above, with respect to any employee who is so convicted-

(a) Such employee is subject to appropriate disciplinary action, up to and including termination of employment, consistent with the requirement of the Rehabilitation Act of 1973, as amended.

(b) Such employee will be referred to a substance abuse professional (SAP) for evaluation, referral, and treatment. The referral to the SAP applies even if the employee is terminated. (Ord. #96-007, Nov. 1996, as amended by Ord. #2002-011, Nov. 2002)

4-306. Drug testing. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six separate conditions:

(1) Types of tests. (a) Pre-employment. All applicants for employment who have received a conditional offer of employment with the Town of Bluff City, must take a drug test before receiving a final offer of employment.

(b) Transfer. Employees transferring to [fire department, police department, gas department, and transit department] and/or another position within the town that requires a commercial driver's license (CDL) shall undergo drug testing.

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

Post-accident (post-incident) testing shall be carried out within 32 hours following the accident (incident). Urine collection for post-accident (post-incident) testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident (post-incident) testing is to be performed, the Town of Bluff City reserves the right to direct the medical review officer (MRO) to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

(i) Post-accident (post-incident) testing for ambulatory employees. Following all workplace accidents (incident) where drug testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the Town of Bluff City to the designated urine specimen collection site within 32 hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employees will be taken to the (testing site) within 32 hours. No employee shall consume drugs prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the Town of Bluff City and shall result in administrative action up to and including termination of employment.

(ii) Post-accident (post-incident) testing for injured employees. An affected employee who is seriously injured,

non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the Town of Bluff City appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the Town of Bluff City or upon hiring following the implementation date.

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within 32 hours must be fully documented by the attending medical personnel.

(d) Testing based on reasonable suspicion. A drug test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

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

Supervisory personnel of the Town of Bluff City making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the mayor or city manager within 24 hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

(e) Random testing. Only employees of the Town of Bluff City possessing or wishing to obtain a commercial driver's license (CDL) to operate a Commercial Motor Vehicle (CMV) are subject to random urine drug testing. It is the policy of the Town of Bluff City to random test for

drugs at least 50 percent of the total number of drivers possessing a commercial driver's license (CDL) who operate a Commercial Motor Vehicle.

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once each year while others may not be tested at all, depending on the random selection.

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

(f) Return-to-duty and follow-up. Any employee of the Town of Bluff City who has violated the prohibited drug conduct standards and is allowed to return to work, must submit a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty. The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

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

(2) Prohibited drugs. All drug results will be reported to the medical review officer (MRO). If verified by the MRO, they will be reported to the city manager. The following is a list of drugs for which tests will be routinely conducted (see Appendix A for cutoff levels):

- (1) Amphetamines;
- (2) Marijuana;
- (3) Cocaine;
- (4) Opiates;
- (5) Phencyclidine (PCP);
- (6) Alcohol; and
- (7) Depressants.

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

(3) Drug testing collection procedures. Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will either be taken by a supervisor or designated personnel of the Town of Bluff City to a drug test collection facility selected by the Town of Bluff City (see Appendix A), where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs

of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the Town of Bluff City to perform the analysis on collected urine samples.

(4) Drug testing laboratory standards and procedures. All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS). As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the (testing site) within 32 hours where proper collection procedures will be administered.

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

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

(5) Reporting and reviewing. The Town of Bluff City shall designate a medical review officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders.

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

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

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

(d) Neither the Town of Bluff City, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having a legitimate

right-to-know as determined by the city attorney. (Ord. #96-007, Nov. 1996, as amended by Ord. #2006-016, Sept. 2006)

4-307. Alcohol testing. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to alcohol testing under six separate conditions:

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

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

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

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the Town of Bluff City and shall result in disciplinary action up to and including termination of employment.

(ii) Post-accident (post-incident) testing for injured employees. An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall

also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the Town of Bluff City appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the Town of Bluff City or upon hiring following the implementation date.

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

(b) Testing based on reasonable suspicion. An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

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

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

(c) Random testing. Only employees of the Town of Bluff City possessing or wishing to obtain a commercial driver's license (CDL) who operate a Commercial Motor Vehicle. It is the policy of the Town of Bluff City to annually random test for alcohol at least 25 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL) who operate a Commercial Motor Vehicle.

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

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

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

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

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

(2) Alcohol testing procedures. All breath alcohol testing conducted for the Town of Bluff City shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

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

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

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

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

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test

shall result in administrative action by proper officials of the Town of Bluff City up to and including termination of employment action by proper officials of the Town of Bluff City.

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

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

The completed breath alcohol test form shall be submitted to the city manager. (Ord. #96-007, Nov. 1996)

4-308. Education and training. (1) Supervisory personnel who will determine reasonable suspicion testing. Training supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will include at the minimum two 60-minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period will be for drugs and one will be for alcohol.

The Town of Bluff City will sponsor a drug-free awareness program for all employees.

(2) Distribution of information. The minimal distribution of information for all employees will include the display and distribution of:

- (a) Informational material on the effects of drug and alcohol abuse;
- (b) An existing community services hotline number;
- (c) The Town of Bluff City policy regarding the use of prohibited drugs and/or alcohol; and
- (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace. (Ord. #96-007, Nov. 1996)

4-309. Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result. Job applicants will be denied employment with the Town of Bluff City if their initial positive pre-employment drug and alcohol test results have been confirmed/verified.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and including termination. The town may consider the following factors in determining the appropriate disciplinary response: the employee's work history, length of employment, current work assignment, current job performance, and

existence of past disciplinary actions. However, the town reserves the right to allow employees to participate in an education and/or treatment program approved by the Employee Assistance Program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

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

Refusing to submit to an alcohol or controlled substances test means that a driver:

- (1) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;
- (2) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or
- (3) Engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technician shall provide a written statement to the town indicating a refusal to test. (Ord. #96-007, Nov. 1996)

4-310. Voluntary disclosure of drug and/or alcohol use. In the event that an employee of the Town of Bluff City is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private.

Such voluntary desire for help with a substance abuse problem will be honored by the Town of Bluff City. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of the Town of Bluff City may be allowed up to 30 consecutive calendar days for initial substance abuse treatment as follows:

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

Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the substance abuse professional (SAP) of the Town of Bluff City. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective department head and city manager of the Town of Bluff City will consider each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the Town of Bluff City. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to disciplinary action up to and including termination of employment as specified elsewhere in this policy. (Ord. #96-007, Nov. 1996)

4-311. Exceptions. This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoxilyzer demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol. (Ord. #96-007, Nov. 1996)

4-312. Modification of policy. This statement of policy may be revised by the Town of Bluff City at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy of the Town of Bluff City. (Ord. #96-007, Nov. 1996)

4-313. Definitions. For purposes of the drug and alcohol testing policy, the following definitions are adopted:

(1) "Alcohol." The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

(2) "Alcohol concentration." The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

(3) "Alcohol use." The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

(4) "Applicant." Any person who has on file an application for employment or any person who is otherwise being considered for employment or transfer to the police department, fire department, or to a position requiring a commercial driver's license (CDL) being processed for employment. For the purposes of this policy, an applicant may also be: a uniformed employee who has applied for and is offered a promotion or who has been selected for a special assignment; a non-uniformed employee who is offered a position as a uniformed employee; or an employee transferring to or applying for a position requiring a CDL.

(5) "Breath Alcohol Technician (BAT)." An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

(6) "Chain of custody." The method of tracking each urine specimen to maintain control from initial collection to final disposition for such samples and accountability at each stage of handling, testing, storing, and reporting.

(7) "Collection site." A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen that will be analyzed for the presence of alcohol and/or drugs. Collection site may also include a place for the administration of a breath analysis test.

(8) "Collection site personnel." A person who instructs donors at the collection site.

(9) "Commercial driver's license (CDL)." A motor vehicle driver's license required to operate a commercial motor vehicle (CMV).

(10) "Commercial Motor Vehicle (CMV)." Any vehicle or combination of vehicles meeting the following criteria: weighing more than 26,000 pounds; designed to transport more than 15 passengers; transporting hazardous materials required by law to be placarded, regardless of weight; and/or classified as a school bus.

(11) "Confirmation test." In drug testing, a second analytical procedure that is independent of the initial test to identify the presence of a specific drug or metabolite that uses a different chemical principle from that of the initial test to ensure reliability and accuracy. In breath alcohol testing, a second test following an initial test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.

(12) "Confirmed positive result." The presence of an illicit substance in the pure form or its metabolites at or above the cutoff level specified by the National Institute of Drug Abuse identified in two consecutive tests that utilize different test methods and that was not determined by the appropriate medical, scientific, professional testing, or forensic authority to have been caused by an alternate medical explanation or technically insufficient data. An EBT result equal to or greater than 0.02 is considered a positive result.

(13) "Consortium." An entity, including a group or association of employers or contractors, which provides alcohol or controlled substances testing

as required by this part or other DOT alcohol or drug testing rules and that acts on behalf of the employers.

(14) "Department director." The director or chief of a city department or his/her designee. The designee may be an individual who acts on behalf of the director to implement and administer these procedures.

(15) "DHHS." The federal Department of Health and Human Services or any designee of the secretary, Department of Health and Human Services.

(16) "DOT agency." An agency of the United States Department of Transportation administering regulations related to alcohol and/or drug testing. For the Town of Bluff City, the Federal Highway Administration (FHWA) is the DOT agency.

(17) "Driver." Any person who operates a commercial motor vehicle.

(18) "EAP." Employee Assistance Program.

(19) "Employee." An individual currently employed by the Town of Bluff City.

(20) "Evidential Breath Testing Device (EBT)." An instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."

(21) "FHWA." Federal Highway Administration.

(22) "Initial test." In drug testing, an immunoassay test to eliminate negative urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

(23) "Medical Review Officer (MRO)." A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information.

(24) "Negative result." The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.

(25) "NHTSA." National Highway and Traffic Safety Administration.

(26) "Refuse to submit." Refusing to submit to an alcohol or controlled substances test means that a driver:

(a) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(b) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(c) Engages in conduct that clearly obstructs the testing process.

(27) "Safety-sensitive drivers." Employees in the aviation, motor carrier, railroad, and mass transit industries.

(28) "Split specimen." Urine drug test sample will be divided into two parts. One part will be tested initially, the other will remain sealed in case a retest is required or requested.

(29) "Substance abuse professional." A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders. (Ord. #96-007, Nov. 1996)

4-314. Effective date. This employee drug and alcohol testing policy has been approved and adopted by the Town of Bluff City effective Jan. 1, 1996. (Ord. #96-007, Nov. 1996)

CHAPTER 4

TRAVEL POLICY

SECTION

- 4-401. Policy.
- 4-402. Travel requests.
- 4-403. Travel documentation.
- 4-404. Transportation.
- 4-405. Lodging.
- 4-406. Meals and incidentals.
- 4-407. Miscellaneous expenses.
- 4-408. Travel reconciliation.
- 4-409. Disciplinary action.
- 4-410. Take home vehicles.

4-401. Policy. The Town of Bluff City, a municipal corporation of the State of Tennessee, establishes the following as its policy for travel by city employees engaged in city business. (Ord. #98-12, § I, Nov. 1998)

4-402. Travel requests. To ensure reimbursement for official travel, an approved travel authorization form is required. Lack of pre-approval does not prohibit reimbursement, but it does assure reimbursement within the limits of the city travel policy. All costs associated with the travel should be reasonably estimated and shown on the travel request form. An approved request form is needed before advanced expenses are paid or travel advances are authorized. A copy of the conference program, if applicable, should be attached to the form. If the program is not available prior to the travel, submit it with the reimbursement form. (Ord. #98-12, § I, Nov. 1998)

4-403. Travel documentation. It is the responsibility of the authorized traveler to:

- (1) Prepare the reimbursement request and to accurately describe the travel,
- (2) Certify the accuracy of the reimbursement request,
- (3) Note on the reimbursement form all direct payments and travel advances made by the Town of Bluff City,
- (4) File the reimbursement form with the necessary supporting documents and original receipts.
- (5) Receipts are required for all claimed expenses in excess of \$5.00.

The reimbursement form must be filed with the city recorder within ten (10) working days of return. No additional travel requests will be approved or advances issued until prior travel reimbursement requests have been submitted. (Ord. #98-12, § I, Nov. 1998)

4-404. Transportation. All potential costs should be considered when selecting the mode of transportation. For example, airline travel may be cheaper than automobile when time away from work and increased meal and lodging costs are considered. When time is important, or when the trip is so long that other modes of transportation are not cost-beneficial, air travel is encouraged.

If the traveler goes outside the state by means other than air, the reimbursement will be limited to air fare at tourist or economy class, ordinary expenses during the meeting dates, and one day's meals and motel before and after the meeting. The traveler will be required to take annual leave for any additional time taken beyond the day before and the day after the meeting dates.

Exceptions: When the traveler extends the trip with personal time to take advantage of discount fares, the reimbursement will be limited to the lesser of:

- The actual expenses incurred or
- The amount that would have been incurred for the business portion only.

The calculations for the business portions of the trip must be made using the least expensive rates available.

All expenses and savings associated with extending the trip must be submitted with the expense reimbursement form.

(1) Air. When possible, the traveler should make full use of discounts for advance airline reservations and advance registration. The Town of Bluff City will pay for tourist or economy class air travel. The travelers should get the cheapest reasonable fare and take advantage of "super saver" or other discount fares. Airline travel can be paid by direct billing to the Town of Bluff City. Mileage credits for frequent flyer programs accrue to the individual traveler. However, the Town of Bluff City will not reimburse for additional expenses--such as circuitous routing, extended stays, layovers to schedule a particular carrier, upgrading from economy to first class for travelers to accumulate additional mileage or for other personal reasons. The Town of Bluff City will not reimburse travel by private aircraft unless authorized in advance by the city manager.

(2) Rail or bus. The city will pay for actual costs of ticket.

(3) Vehicles. Automobile transportation may be used when a common carrier can not be scheduled, when it is more economical, when a common carrier is not practical, or when expenses can be reduced by two or more Town of Bluff City employees traveling together.

(a) (i) Personal vehicle. Employees should use Town of Bluff City vehicles when possible. Use of a private vehicle must be approved in advance by the city manager. The Town of Bluff City will reimburse mileage at the same rate as the State of Tennessee pursuant to Tennessee Code Annotated, § 4-3-1008(3). The miles for reimbursement shall be paid from origin to destination and

back by the most direct route. Necessary vicinity travel related to official Town of Bluff City business will be reimbursed. If an indirect route is taken the Rand-McNally mileage table will be used to determine the mileage to be reimbursed. If a privately owned automobile is used by two or more travelers on the same trip, only the traveler who owns or has custody of the automobile will be reimbursed for mileage. It is the responsibility of the traveler to provide adequate insurance for any liability from the use of the private vehicle. In no event will mileage reimbursement, plus vicinity travel and associated automobile costs, exceed the lowest reasonable available airfare and associated airfare travel costs. Travelers will not be reimbursed for automotive repair or breakdowns when using their personal vehicle.

(ii) Local use of personal vehicle. Various employees may find it necessary to use their personal vehicles in the performance of their duties. The Town of Bluff City will reimburse the employee at the same rate as the State of Tennessee pursuant to Tennessee Code Annotated, § 4-3-1008(3). Documentation of such use must include the date, the beginning mileage, the ending mileage and the purpose of the trip. Reimbursement requests must be submitted to the city recorder no later than the 15th day of the month following the travel. It is the responsibility of the traveler to provide adequate insurance for any liability resulting from the use of the private vehicle. In the event that an employee is involved in an accident that is determined not to be the employee's fault, the Town of Bluff City may elect to reimburse the employee for any deductible paid by the employee.

(b) City vehicle. The Town of Bluff City may require the employee to drive a town vehicle. If a Town of Bluff City is provided, the traveler is responsible for seeing that the vehicle is used properly and only for acceptable business. The employee will be reimbursed for expenses directly related to the actual and normal use of the Town of Bluff City vehicle when proper documentation is provided. Out-of-town repair cost to the town's vehicle in excess of \$250.00 must be cleared by the city manager or city recorder before the repair is authorized. Whenever possible, repairs should be performed at an authorized dealership for the make of the vehicle being repaired. Copies of receipts for all fuel purchased. City credit card fuel purchases and repairs must be forwarded to the city recorder upon return.

(c) Rental cars. Use of a rental car is not permitted unless it's less expensive or otherwise more practical than public transportation. Approval of car rental is required in advance by the city manager. Always request the government or weekend rate, whichever is cheaper.

Fine for traffic or parking violations will not be reimbursed by the city. Reasonable tolls will be allowed when the most direct travel route requires them. Parking fees and costs will be reimbursed. Receipts are required for items over \$5.00.

(4) Taxi, limousine, and other transportation fares. When an individual travels by common carrier, reasonable fares will be allowed for necessary ground transportation. Bus or limousine service to and from airports should be used when available and practical. The Town of Bluff City will reimburse mileage for travel to and from the local airport and parking fees, provided such costs do not exceed normal taxi/limousine fares to and from the airport. Receipts are required for parking fees of \$5.00 or more. For travel between lodging quarters and meetings, conferences, or meals, reasonable taxi fares will be allowed. Remember, original receipts are required for claims of \$5.00 or more. Transportation to and from shopping, entertainment, or other personal trips is the choice of the traveler and are not reimbursable. Reimbursement claims for taxis, limousines, or other ground transportation must be listed separately on the expense form, claiming the destination and amount of each fare. (Ord. #98-12, § I, Nov. 1998, as amended by Ord. #2001-004, July 2001)

4-405. Lodging. The Town of Bluff City will reimburse the employee for the actual costs incurred. The employee is expected to obtain the best rate available under the circumstances. Government rates should be requested and tax exemption certificates used whenever possible.

(1) Original lodging receipts must be submitted with the reimbursement form. Photocopies are not acceptable.

(2) Even if it costs more, travelers may stay at the officially designated hotel of the meeting; however, more moderately priced accommodations must be requested whenever possible. It will be the traveler's responsibility to provide documentation of the "officially designated meeting site" room rates, if these rates are higher than the normal reimbursable amounts.

(3) If two or more city employees travel together and share a room, the lodging reimbursement will be for the actual cost incurred up to a maximum of the costs of two single rooms. One employee should report the total costs of the lodging and indicate that the room was shared and with whom. If an employee shares a room with a non-employee, the actual costs will be allowed up to the single room rate. The receipt for the entire amount must be submitted with the expense form. (Ord. #98-12, § I, Nov. 1998)

4-406. Meals and incidentals. Receipts are not required for meals and incidentals. The authorized traveler will be reimbursed the daily amount based on the rate schedule below and the authorized length of stay. The per diem meal amounts are expected to cover meals, tips, porters, and incidental expenses. The authorized traveler will not be reimbursed more than this.

Whether meals may be claims depends on when the traveler leaves and returns to the official station. The traveler's official station is home or work, whichever produces the least costs to the Town of Bluff City. When partial day travel is involved, the current per diem allowance is determined as follows:

<u>Meal</u>	<u>Amount</u>	<u>If departure before</u>	<u>If return after</u>
Breakfast	\$8.00	7:00 A.M.	8:00 A.M.
Lunch	\$10.00	11:00 A.M.	1:30 P.M.
Dinner*	\$18.00	5:00 P.M.	6:30 P.M.
Incidentals	\$5.00		

*When overnight travel is involved, dinner reimbursement is made regardless of departure time.

**The city manager will address special circumstances relating to per diem allowances on a case by case basis.

The amounts include tip, gratuity, etc. The hour and date of departure and return must be shown on the expense reimbursement form.

The excess costs of an official banquet may be allowed provided proper documentation or explanation is submitted with the expense reimbursement form. If a meal is included as part of a conference or seminar registration, or is included with the air fare, then the allowance for that meal should be subtracted from the total allowance for the day. For example, if a dinner is included as part of the conference fee, the maximum meal allowance for the day should be reduced by the allowed dinner amount. (Ord. #98-12, § I, Nov. 1998)

4-407. Miscellaneous expenses. (1) Registration fees for approved conferences, conventions, seminars, meetings, and other educational programs will be allowed and will generally include the costs of official banquets, meals, lodging, and registration fees. Registration fees should be specified on the original travel request form and can include a request for pre-registration fee payment.

(2) Business related long distance phone calls will be reimbursed. In addition, one personal long distance call, not to exceed \$5.00 will be reimbursed per day. Employees should use the most economical telephone service available.

(3) A \$4.00 allowance will be reimbursable for hotel/motel check-in and baggage handling expense.

(4) Laundry, valet service, tips and gratuities are considered personal expenses and are not reimbursable.

(5) For travel outside the United States, all expenses claimed must be converted to U.S. dollars. The conversion rate and computation should be shown on each receipt. (Ord. #98-12, § I, Nov. 1998)

4-408. Travel reconciliation. (1) Within 10 days of return from travel the traveler is expected to complete and file the expense reimbursement form. It must be certified by the traveler that the amount due is true and accurate. Original lodging, travel, taxi, parking, and other receipts must be attached.

If the Town of Bluff City provided a travel advance or made advanced payment, the traveler should include that information on the expense form. In the case of advances, the form should have a reconciliation summary, reflecting total claimed expenses with advances and town pre-payments indicated. The balance due the traveler or the refund due the town should be clearly shown.

(2) If the traveler received advance and spent less than the advance, the traveler should attach a check made payable to the town for that difference. If the refund by the traveler is to be made in cash, the cash must be hand delivered to the city recorder. The receipt must be attached to the expense reimbursement form. Do not send cash through the inter-office mail.

(3) The city manager will address special circumstances and issues not covered in this chapter on a case-by-case basis.

(4) Where several employees travel together as a group, one reimbursement request may be submitted by the employee in charge. Such reimbursement request must indicate the names of the employees included. (Ord. #98-12, § I, Nov. 1998)

4-409. Disciplinary action. Violation of the travel rules can result in disciplinary action for employees. Travel fraud can result in criminal prosecution of officials and/or employees. (Ord. #98-12, § I, Nov. 1998)

4-410. Take home vehicles. The town manager is hereby authorized to issue take home vehicles in exigent circumstances. The take home vehicle shall be used under the following policy:

(1) After the workday the vehicle is to be driven from work to home, back to work the next day and on call outs only.

(2) The vehicle is to be used for no personal errands whatsoever.

(3) There shall be no hauling of personal items other than those items needed for the work day and/or call outs.

(4) No passengers shall be allowed in the vehicle except for governmental passengers and/or passengers in the performance of the employee's duty.

(5) When the employee is on vacation the take home vehicle shall stay on town property rather than the employee's home. (as added by Ord. #2005-011, Sept.2005, and amended by Ord. #2011-013, Aug. 2011)

CHAPTER 5

E-MAIL POLICY

SECTION

- 4-501. Purpose and scope
- 4-502. Background.
- 4-503. Ownership.
- 4-504. Responsibilities.
- 4-505. Statement of policy and overview of usage.
- 4-506. Confidential information.
- 4-507. Copyright infringement.
- 4-508. Retention of e-mail.
- 4-509. Policy violations.

4-501. Purpose and scope. The city provides electronic mail (e-mail) to employees for their use in performing their duties for the city. These materials explain the city's rules and expectations for the proper use of electronic mail. This document also sets forth circumstances under which e-mail messages may be disclosed to persons outside the city administration. For example, access to e-mail may be granted to external users, such as other cities' employees, special task-force members, or pursuant to a lawful subpoena.

All electronic mail is a local government record and may be considered a "public record" for the purposes of the Tennessee Public Records Act. Under the Public Records Act, certain e-mail communications may be open to public access and inspection. In addition, such communications may be subject to discovery under the Tennessee or Federal Rules of Civil Procedure. (Ord. #2000-010, July 2000)

4-502. Background. Benefits of e-mail. The city finds that e-mail provides many benefits to the city and its employees. E-mail often improves communication between different departments, eliminates unnecessary paperwork, allows communication with many other governmental offices almost instantaneously, and generally facilitates the smooth operation of city services. (Ord. #2000-010, July 2000)

4-503. Ownership. All electronic systems, computers, and other hardware, software, temporary or permanent files, and any related systems or devices used in the transmission, receipt, or storage of e-mail are the property of the Town of Bluff City. E-mail messages are considered to be city property. Also, they may be retrieved from storage even after they have been deleted by the sender and the recipient. (Ord. #2000-010, July 2000)

4-504. Responsibilities. Records manager. The city will designate a records manager or other individual who will be designated as a coordinator for public records generated by e-mail. It is the responsibility of this individual to accommodate members of the public who request access to e-mail. The records manager will also keep a log on the use of public access to the system and develop an efficient procedure to be used for public access to e-mail communications. The records manager may also provide and/or coordinate user training. The city recorder is currently designated as custodian of the public records.

Individuals requesting access to e-mail. Depending on the circumstances and resources, searches requested pursuant to the Public Records Act will be made either by the requester or a city representative. Any requester claiming a qualified disability will be accommodated by the city in accordance with the Americans With Disabilities Act. (Ord. #2000-010, July 2000)

4-505. Statement of policy and overview of usage. Policy. It is city policy that the e-mail system, like other city assets, is used only for the benefit of the city. Use of e-mail that violates city policies or state and/or federal law is prohibited and may lead to disciplinary action up to and including termination. All employees who use e-mail will certify that they have read and fully understand the contents of this policy by signing the attached acknowledgment.¹ Any and all statements and opinions made by individuals using e-mail, whether implied or expressed, are those of the individual and not necessarily the opinions of the city or its management.

Privacy. Employees should be aware that e-mail messages may be read by others for a variety of valid reasons. Although this statement applies to many other types of city correspondence, the informal nature of e-mail may lead one to forget or ignore the fact that e-mail is considered to be the private property of the sender or the recipient, even if passwords or encryption codes are used for security reasons.

Personal use. Should employees make incidental use of e-mail to transmit personal messages, those messages will be treated no differently than other messages and may be accessed, reviewed, copied, deleted, or disclosed. You should not expect that a message will never be disclosed to or read by others beyond its original intended recipient(s).

Authorized uses. Supervisors or department heads may authorize the use of e-mail to send and receive messages and to subscribe to list-servers from recognized professional organizations and entities relating to the official duties of the city. All employees are authorized to use e-mail as they would any other official city communication tool. Communication by e-mail is encouraged when it results in the most efficient or effective means of communication.

¹This acknowledgment form is of record in the office of the recorder.

Uses subject to approval. The following uses require the written approval of the employee's supervisor or department head:

- Using hardware, related computer equipment, and software not owned or purchased by the city for e-mail related city business.
- Reading electronic mail of another employee without prior written approval. However, an employee's supervisor may inspect the contents of e-mail pursuant to the section entitled "ownership" in this policy.
- Encrypting any e-mail message unless specifically authorized to do so and without depositing the encryption key with the computer administrator or your immediate supervisor prior to encrypting any messages. If an employee is allowed to encrypt e-mail, this does not mean that e-mail is intended for personal communication nor does it suggest that encrypted e-mail messages are the private property of the employee.

Prohibited uses. The following actions are prohibited:

- Intercepting, eavesdropping, recording, or altering another person's e-mail message;
- Forwarding a message sent to you without the sender's permission, including chain letters;
- Adopting the identity of another person on any e-mail message, attempting to send electronic mail anonymously, or using another person's password;
- Misrepresenting yourself or your affiliation with the city in any e-mail message;
- Composing e-mail that contains racial, religious, or sexual slurs or jokes, or harassing, intimidating, abusive, or offensive material to or about others;
- Using e-mail for any personal commercial or promotional purpose, including personal messages offering to buy or sell goods or services;
- Using e-mail to conduct employee organization, association, or union business; and
- Sending or receiving any software in violation copyright law. (Ord. #2000-010, July 2000)

4-506. Confidential information. Employees must exercise a greater degree of caution in transmitting confidential information via e-mail than with other forms of communications. Why? Because it paves the way for another person to redistribute such information almost effortlessly. Confidential information should never be transmitted or forwarded to other employees inside or outside the city who do not have a "need to know." To reduce the chance that

confidential information inadvertently may be sent to the wrong person, avoid misuse of distribution lists and make sure that any lists used are current.

If you are unsure whether certain information is confidential, consult your supervisor, your city attorney, or an MTAS legal consultant. Examples of information that either are or may be considered confidential include but are not limited to:

- Certain personal information from a person's personnel file, including medical records about employees and personal, identifying information of undercover detectives, such as home addresses, telephone numbers, identities of family members, and social security numbers;
- Information relating to an administrative hearing and litigation of a civil or criminal nature;
- Information that, if released, would give a competitive advantage to one prospective bidder over another for city contracts;
- Private correspondence of elected officials;
- Trade secrets or commercial or financial information of outside businesses;
- Information related to the regulation of financial institutions or securities;
- Information regarding an ongoing criminal investigation; and
- Taxpayer information.

E-mail messages that contain confidential information should have a confidentiality declaration printed at the top of the message in a form similar to the following:

"THIS MESSAGE CONTAINS CONFIDENTIAL INFORMATION OF THE TOWN OF BLUFF CITY. UNAUTHORIZED USE OR DISCLOSURE IS PROHIBITED."

Since copies of e-mail may be backed up or sent to other systems, they can easily be retrieved later by information system personnel who should not know the content of the message. Therefore, employees should keep in mind that e-mail may not be the best form of communication with respect to certain types of confidential information.

Messages to legal counsel. All messages to and from legal counsel seeking or giving legal advice should be marked with the following legend in all capital letters at the top of the page:

"CONFIDENTIAL ATTORNEY/CLIENT PRIVILEGED INFORMATION."

In addition, to preserve the attorney/client privilege, messages to and from legal counsel should never be sent to distribution lists or forwarded to anyone else. It is best if such messages are not retained on a network e-mail system. If a copy of an attorney/client privileged communication needs to be

retained, it should be printed and filed in an appropriate place. (Ord. #2000-010, July 2000)

4-507. Copyright infringement. The ability to attach a document to an e-mail message for distribution may increase the risk of copyright infringement as prohibited by federal law. A user can be liable for the unauthorized copying and distribution of copyrighted material through e-mail systems. Accordingly, you should not copy and distribute by e-mail any copyrighted material of a third party, such as software, database files, documentation, articles, graphics files, and downloaded information, unless you confirm in advance from appropriate sources that the city has the right to copy or distribute such material. Any questions concerning these rights should be directed to appropriate legal counsel. (Ord. #2000-010, July 2000)

4-508. Retention of e-mail. Deletion of messages. The city strongly discourages the local storage of large number of e-mail messages. Retention of messages takes up large amounts of storage space on the network server. In addition, because e-mail messages can contain confidential information, it is desirable to limit the number, distribution, and availability of such messages. Of course, if the message contains information that must be preserved as a permanent record, it must be saved and archived. (Ord. #2000-010, July 2000)

4-509. Policy violations. Violations of this policy will be reviewed on a case-by-case basis and can result in disciplinary action up to and including termination. All e-mail messages are subject to all state and federal laws that may apply to the use of e-mail. In addition, violations of this policy or misuse of the e-mail system could result in civil or criminal prosecution. (Ord. #2000-010, July 2000)

CHAPTER 6

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-601. Title
- 4-602. Purpose.
- 4-603. Coverage.
- 4-604. Standards authorized.
- 4-605. Variances from standards authorized.
- 4-606. Administration.
- 4-607. Funding the program.

4-601. Title. This section shall be known as the Occupational Safety and Health Program Plan for the employees of Town of Bluff City, Tennessee.¹ (as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

4-602. Purpose. The Town of Bluff City in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

(1) Provide a safe and healthful place and condition of employment that includes:

- (a) Top management commitment and employee involvement;
- (b) Continually analyze the worksite to identify all hazards and potential hazards;
- (c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and
- (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

(2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.

(3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

¹The plan of operation for the occupational safety and health program plan for the employees of the Town of Bluff City, Tennessee is available for review in the office of the recorder.

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

4-603. Coverage. The provisions of the Occupational Safety and Health Program Plan for the Town of Bluff City shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

4-604. Standards authorized. The occupational safety and health standards adopted by the Town of Bluff City are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.¹ (as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

4-605. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees.

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

(as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

4-606. Administration. For the purposes of this chapter, city manager is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions for the Public Sector, Chapter 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

4-607. Funding the program. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the Town of Bluff City. (as added by Ord. #2004-013, Nov. 2004, and replaced by Ord. #2013-002, May 2013)

CHAPTER 7

TOBACCO USE POLICY

SECTION

4-701. Tobacco use policy.

4-701. Tobacco use policy. The use of any kind of tobacco products will be prohibited in all areas of town buildings including private offices, meeting rooms, hallways, and all town vehicles. Employees will only be allowed to use tobacco products in designated areas outside of the buildings. The town manager shall designate those areas. (as added by Ord. #2005-010, Aug. 2005)

CHAPTER 8

CODE OF ETHICS POLICY

SECTION

- 4-801. Applicability.
- 4-802. Definition of "personal interest."
- 4-803. Disclosure of personal interest by official with vote.
- 4-804. Disclosure of personal interest in non-voting matters.
- 4-805. Acceptance of gratuities, etc.
- 4-806. Use of information.
- 4-807. Use of municipal time, facilities, etc.
- 4-808. Use of position or authority.
- 4-809. Outside employment.
- 4-810. Ethics complaints.
- 4-811. Violations.

4-801. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #2006-020, Nov. 2006)

4-802. Definition of "personal interest." (1) For purposes of §§ 4-803 and 4-804 "personal interest" means:

- (a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interest; or
- (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
- (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).
 - The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.
 - In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #2006-020, Nov. 2006)

4-803. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #2006-020, Nov. 2006)

4-804. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #2006-020, Nov. 2006)

4-805. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity or other consideration or favor of any kind from anyone other than the municipality:

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

- That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #2006-020, Nov. 2006)

4-806. Use of information. • An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

- An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #2006-020, Nov. 2006)

4-807. Use of municipal time, facilities, etc. • An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

- An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interest of the municipality. (as added by Ord. #2006-020, Nov. 2006)

4-808. Use of position or authority. • An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

• An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #2006-020, Nov. 2006)

4-809. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #2006-020, Nov. 2006)

4-810. Ethics complaints. • The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

• (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

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

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.

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

• When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rules, or regulations, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #2006-020, Nov. 2006)

4-811. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #2006-020, Nov. 2006)