

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

1. SOCIAL SECURITY.
2. PERSONNEL POLICY.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. DRUG AND ALCOHOL TESTING POLICY.

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

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
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4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this town 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. (1983 Code, § 1-701)

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. (1983 Code, § 1-702)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in § 4-101 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. (1983 Code, § 1-703)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be

required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1983 Code, § 1-704)

4-105. Records and reports. The city recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1983 Code, § 1-705, modified)

CHAPTER 2

PERSONNEL POLICY

SECTION

- 4-201. Personnel policy.
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- 4-203. Benefits.
- 4-204. Grievance procedures.
- 4-205. State and federal personnel mandates.
- 4-206. Miscellaneous personnel policies.
- 4-207. Dismissal.
- 4-208. Personal policy changes.

4-201. Personnel policy. (1) Purpose. The purpose of this chapter is to establish a system of personnel administration in the Town of Carthage, Tennessee.

(2) At-will employer. The Town of Carthage, Tennessee is an at-will employer. Nothing in this chapter may be construed as creating a property right or contract right to any job for any employee.

(3) Coverage. The following personnel are not covered by this policy, unless otherwise provided:

- (a) All elected officials.
- (b) Members of appointed boards and commissions.
- (c) Consultants, advisors, and legal counsel rendering temporary professional service.
- (d) The city attorney.
- (e) Independent contractors and/or contract employees.
- (f) Volunteer personnel.
- (g) The city judge.

All other employees of the municipal government are covered by this personnel policy.

4-202. Employees. (1) Full-time. Full-time employees are individuals employed by the municipal government who normally work forty (40) hours per week.

(2) Part-time. Part-time employees are individuals who may not work on a daily basis or work on a daily basis fewer than 8 hours a day and may work fewer than thirty (30) hours per week or who are temporary and/or seasonal employees.

(3) Rate of pay. Each employees rate of pay is set by the council. This rate may vary based on the job which you are hired to do, skills you have, responsibility, experience and other factors required by the job.

(4) Probationary period. All new employees of the Town of Carthage are hired on a probationary basis for the first six months of employment. During this trial period, the town and the employee evaluate whether or not a permanent employment relationship should be established.

(5) Working hours. Work hours vary depending on job functions. Daily work will be assigned by your supervisor who will define your specific starting and finishing time. Scheduled breaks will be limited to 10 minutes. Please check with your supervisor for exact work schedules. From time to time, the town may require a slight modification in your starting and finishing time to accommodate work requirements. Wasting time by parking, visiting, or loafing and/or engaging in horseplay or fighting can result in disciplinary action. Our business is dependent upon citizens being able to reach us on the telephone, therefore, personal calls should be limited in length.

(6) Attendance. Regular and prompt attendance is essential for the success of our business. Absenteeism and tardiness disrupt work schedules of others. Regular attendance is expected of all employees. If you expect to be absent from work, you must notify your supervisor prior to the beginning of your daily scheduled working hours. Unanticipated absences of an emergency nature (accident, sudden illness, etc.) must be reported to your supervisor within 2 hours after the beginning of the work day.

Employees called to emergency work of any kind are expected to respond promptly.

Absences from work for any reason, which the town does not approve, will be reflected in your work record. Too many absences of any kind, including repetitive or prolonged absences, will result in disciplinary action. Three absences (consecutive work days) without sufficient notice to the town will be reason to believe that the employee has resigned and a doctors statement with satisfactory reasons shall be required to prevent termination of employment.

4-203. Benefits. (1) Holidays. Generally, full-time employees are allowed a day off with pay on the following holidays:

- (a) New Years Day
- (b) Martin Luther King Day
- (c) President's Day
- (d) Memorial Day
- (e) Independence Day
- (f) Labor Day
- (g) Veteran's Day
- (h) Thanksgiving Day
- (i) Christmas Day
- (j) Employee's Birthday

Employees must be in a pay status on the work day before and on the work day after the holiday, unless otherwise excused by the supervisor, to receive compensation for the holiday.

Any employee required to work on a regular holiday shall be granted 8 hours off on an alternate day approved by the supervisor or an additional 8 hours pay for the holiday.

(2) Vacation leave. All full-time employees of the municipality shall accrue vacation leave monthly upon the completion of each calendar month of service. Vacation leave will begin to accrue as of the first full month of employment, but cannot be taken until the employee has completed 12 months of employment. As the number of years of service increases, the amount of leave granted increases and may accumulate to the maximum accrual as shown in the table below:

Years of Service	Maximum Accrual
1	5 Days
2	10 Days
5	15 Days

Vacation leave exceeding the maximum accrual limit shall be forfeited.

Vacation leave shall be taken at a time approved by the employee's supervisor. Upon separation, employees are entitled to be reimbursed for any unused vacation leave, not to exceed the maximum accrual allowed for the years of service completed.

It is compulsory to take at least one week of earned vacation per year.

All vacation schedules must be approved in advance by your supervisor and the mayor to prevent excessive overtime.

An employee may sell one week of accrued vacation leave during a calendar year.

Vacation time must be taken by the end of each calendar year.

(3) Sick leave. All full-time employees shall accumulate 8 hours sick leave with pay for each month of work completed for the municipality. Sick leave may be granted for any of the following reasons:

(a) Personal illness or physical incapacity resulting from causes beyond the employee's control.

(b) Exposure to contagious disease so that employee's presence at work might jeopardize the health of other employees.

(c) Medical, dental, optical or other professional treatments or examinations.

(d) Acute illness of a member of the employee's immediate family.

(e) Three (3) consecutive days of sick leave may require a doctor's statement.

(f) An employee may accrue up to 90 days of sick leave, however, they are not reimbursable upon separation of employment.

(4) Bereavement pay. An employee who is required to be absent from work in order to arrange and/or attend the funeral of an immediate family member, will be given up to three days off with pay at straight time hourly rate subject to these guidelines:

(a) Immediate family consists to spouse, child, mother, father, brother, sister, mother-in-law, father-in-law, grandfather, grandmother, step-father, step-mother, grandchild, step-child.

(b) One of the three days must be the day of the funeral if during the scheduled work week.

(c) One day bereavement pay may be given an employee to attend the funeral of a relative if on a regular scheduled work day.

(d) An employee may be given time off without pay to attend the funeral of a non-relative..

(e) Proof of dates and attendance of the funeral may be required.

4-204. Grievance procedures. (1) Grievance policy. The purpose of this section is to prescribe uniform disposition procedures of grievance presented by individual employees. A grievance is a written question, disagreement, or misunderstanding concerning administrative orders involving only the employee's work area, reasonable accommodation under 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 department head 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 immediate supervisor. If satisfaction is not obtained, the grievance is advanced to the second step.

Step 2. Discuss the problem with the mayor. If the grievance is not resolved, it is advanced to the third step along with all documentation.

Step 3. Discuss the problem with the appropriate department committee.

Step 4. The council decision is the last step in the process. The decision of the council is final and binding to all parties involved.

4-205. State and federal personnel mandates. (1) Discrimination prohibited. The municipality is an equal opportunity employer. Except as

otherwise permitted by law, the municipality will not discharge or fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, gender, or national origin, or because the individual is forty (40) or more years of age. The municipality will not discriminate against qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training, or other terms, conditions, and privileges of employment. (Title VII of Civil Rights Act of 1964 - 42 U.S.C. SS2000e-2000-15; Equal Pay Act 1963 - 20 U.S.C. S206(d); Age Discrimination in Employment Act - 29 U.S.C. SS621 et seq.; Americans With Disabilities Act - 42 U.S.C. SS506 et seq.)

(2) Sexual harassment prohibited. Sexual harassment by any employee or elected or appointed official of the municipality will not be tolerated. Sexual harassment is unwanted sexual conduct, or conduct based upon sex, by an employee's supervisor(s) or fellow employees or others at the work place that creates a hostile work environment, makes decisions contingent on sexual favors, or adversely affects an employee's job performance. Examples of conduct that may constitute sexual harassment are: sexual advances, requests for sexual favors, propositions, physical touching, sexually provocative language, sexual jokes, and display of sexually-oriented pictures or photographs.

Any employee who believes that he or she has been subjected to sexual harassment should immediately report this to the mayor or council. Within the limits of the Tennessee Open Records Law, the municipality will handle the matter with as much confidentiality as possible. There will be no retaliation against an employee who makes a claim of sexual harassment or who is a witness to the harassment.

The municipality will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. If the municipality determines that sexual harassment has occurred, corrective action will be taken. The municipality will attempt to make the corrective action reflect the severity of the conduct. If it is determined that no harassment has occurred, this will be communicated to the employee who made the complaint, along with the reasons for the determination.

(3) Occupational safety and health. The municipality shall provide safety and health protection for all employees in accordance with Occupation Safety and Health Administration (OSHA) Legislation (29 U.S.C. SS656 et seq.) and the Tennessee OSHA Law (Tennessee Code Annotated, § 50-3-101 et seq.).

(4) Overtime compensation. The Fair Labor Standards Act (FLSA) shall govern the overtime compensation of municipal employees (29 C.F.R. SS553.1 et seq.).

(5) Military leave/veterans' re-employment. All employees who are members of reserve components of the armed forces, including the National Guard, are entitled to leave while engaged in "duty or training in the service of

this state, or of the United States, under competent orders," and they must be given such leave with pay not exceeding 15 working days in any one calendar year (Tennessee Code Annotated, § 8-33-109). Also, any employee of the municipality who leaves his/her job, voluntarily or involuntarily, to enter active duty in the armed forces may return to the job in accordance with Veterans' Re-employment Rights (38 U.S.C. S202-2-16) and the Tennessee Military Leave Act (Tennessee Code Annotated, § 8-33-101 et seq.).

(6) Family and medical leave. If the municipality has 50 or more employees on the payroll an eligible employee (one who has been employed at least 12 months and worked at least 1250 hours in the preceding 12 months) will be provided 12 calendar weeks of unpaid leave for medical conditions of the employee or his/her family members in accordance with the Family and Medical Leave Act (P.L. 103-3).

(7) Commercial driver's license. All employees that drive

(a) A vehicle with a gross weight of more than 26,000 pounds;

(b) A trailer with a gross weight of more than 10,000 pounds;

(c) A vehicle designed to transport more than 15 passengers, including the driver; and

(d) Any size vehicle hauling hazardous waste requiring placards are required to have a Tennessee commercial driver's license in accordance with Tennessee Code Annotated, § 55-50-101 et seq. Fire truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements.

(8) Employee drug testing. All employees in safety-sensitive positions (such as gas employees, equipment/vehicle operators that require a commercial driver's license, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, Title V) and the Natural Gas Pipeline Safety Act (49 CFR Part 199). Other employees are subject to drug testing in accordance with the drug testing policy of the municipality. The municipality's procedures for drug testing can be found in Title 4 Chapter 4 of this municipal code.

(9) Residence requirements. No person "currently employed" by the municipality can be dismissed or penalized "solely on the basis of non-residence" (Tennessee Code Annotated, § 8-50-107). However, all future employees shall be required to live within Smith County.

(10) Employee right to contact elected officials. No employee shall be disciplined or discriminated against for communicating with an elected official. However, an employee may be reprimanded for making untrue allegations concerning any job-related matter (Tennessee Code Annotated, § 8-50-601--604).

(11) Civil leave. Civil leave with pay shall be granted to employees for the following reasons:

(a) Jury duty (Tennessee Code Annotated, § 22-4-108).

(b) To answer a subpoena to testify for the municipality.

(12) Voting. When elections are held in the state, leave for the purpose of voting, if requested, shall be in accordance with Tennessee Code Annotated, § 2-1-106.

(13) Political activity. Employees have the same rights as other citizens to be a candidate for state or local political office (except for membership on the municipal governing body) and to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. No employee may campaign on municipal time or in municipal uniform nor use municipal equipment or supplies in any campaign or election (Tennessee Code Annotated, § 7-51-1501).

(14) Travel policy. All employees, including elected and appointed officials, are required to comply with the municipality's travel policy, Resolution No. 92-010, as required by Tennessee Code Annotated, § 6-54-901.

4-206. Miscellaneous personnel policies. (1) Outside employment. No full-time employee of the municipality may accept any outside employment without written authorization from the mayor. If an agreement cannot be reached between the mayor and employee, the employee may appeal it before the council for authorization.

(2) Use of municipal time, vehicles, facilities, etc. No employee may use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other person, group or organization other than the municipality. Decisions about aid to charitable, civic or other organizations will be made exclusively by the governing body.

The misuse or unnecessary roughness of any equipment, vehicles, or other property belonging to the city shall lead to suspension or immediate dismissal.

Employees shall not repair, clean up or do maintenance on any private vehicles or equipment on city time. The normal maintenance and minor repairs required on city vehicles and equipment shall be performed only by authorized personnel.

(3) Accepting of gratuities. No employee shall accept money, other considerations, or favors from anyone other than the municipality for performing an act that he/she would be required or expected to perform in the regular course of his/her duties. No employee shall accept, directly or indirectly, any gift, gratuity, or favor of any kind that might reasonably be interpreted as an attempt to influence his/her actions with respect to the municipalities business.

(4) Misconduct. The following are some acts of misconduct that may result in disciplinary actions that may consist of one or more of the following: oral warning, written warning, dismissal.

- (a) Neglect or inattention to duty.
- (b) Sleeping while on duty.
- (c) Excessive absenteeism or tardiness.

- (d) Failure to observe working hours schedules (starting time, quitting time, rest and meal periods).
- (e) Unauthorized stops and routes made by city employees during the performance of their jobs.
- (f) Drinking any kind of intoxication liquor or under the influence of narcotics while on duty.
- (g) Intoxication while on duty.
- (h) Insubordination. Disobedience of orders, refusal to carry out instructions, directions, and/or assignments from supervisors.
- (i) Willingly making a false official report.
- (j) Receiving or accepting any fee, bribe, reward or gift of any kind from any person.
- (k) Failure to take up grievances through the proper channels.
- (l) Disclosing confidential or proprietary information concerning citizens, other city employees or the city to any unauthorized person.
- (m) Stealing, whether it is city property or property belonging to employees or others.
- (n) Deliberately abusing, destroying, damaging, or defacing city property, tools or equipment.
- (o) Fighting or provoking a fight, negligence or horseplay resulting in injury, repeated or gross violations of safety rules.
- (p) Unauthorized disposal or appropriation of any city property.
- (q) Falsification of city records (including falsifying reasons for medical leaves).

NOTE: DURING THE PROBATIONARY PERIOD, VIOLATIONS OF THESE MISCONDUCTS MAY RESULT IN DISCHARGE.

4-207. Dismissal. (1) At-will. Employees may be dismissed for cause, no cause, or for any cause as long as it does not violate federal and/or state law or the municipal charter.

4-208. Personnel policy changes. Nothing in this resolution may be construed as creating a property right or contract right to the job for any employee. The provisions of this policy may be unilaterally changed by resolution of the governing body from time to time as the need arises.

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-301. Title.
- 4-302. Purpose.
- 4-303. Coverage.
- 4-304. Standards authorized.
- 4-305. Variances from standards authorized.
- 4-306. Administration.
- 4-307. Funding the program.
- 4-308 – 4-316. Deleted.

4-301. Title. This section shall provide authority for establishing and administering the occupational safety and health program plan for the employees of Town of Carthage. (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

4-302. Purpose. The Town of Carthage, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

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

considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

4-303. Coverage. The provisions of the occupational safety and health program plan for the employees of the Town of Carthage shall apply to all employees of each administrative department, commission, board, division or other agency of the Town of Carthage whether part-time or full-time, seasonal or permanent. (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

4-304. Standards authorized. The occupational safety and health standards adopted by the Town of Carthage 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 (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

4-305. Variances from standards authorized. The Town of Carthage may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, chapter 0800-1-2 as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the Town of Carthage shall notify or serve notice to employees, their designated representatives or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the Town of Carthage shall be deemed sufficient notice to employees. (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

4-306. Administration. For the purposes of this chapter, the Town of Carthage Public Works Supervisor is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop and administer the Town of Carthage OSHA Program. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

4-307. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Town of Carthage. (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

4-308 – 4-316. Deleted. (Ord. #297, Nov. 1999, as deleted by Ord. #319, June 2003)

CHAPTER 4

DRUG AND ALCOHOL TESTING POLICY

SECTION

- 4-401. Purpose.
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- 4-410. Voluntary disclosure of drug and/or alcohol use.
- 4-411. Exceptions.
- 4-412. Modification of policy.

4-401. Purpose. The Town of Carthage 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 Carthage 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 Carthage 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 Carthage 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 Carthage 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 mayor has been designated as the municipal official responsible for answering questions regarding this policy and its implementation.

All Town of Carthage 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. #268, Dec. 1995)

4-402. Scope. Certain aspects of this policy may apply to full-time, part-time, temporary, and volunteer employees of the Town of Carthage. 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 Carthage. (Ord. #268, Dec. 1995)

4-403. 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), mayor 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. #268, Dec. 1995)

4-404. 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 or for termination. (Ord. #268, Dec. 1995)

4-405. General rules. These are the general rules governing the Town of Carthage'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 Carthage 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. (Ord. #268, Dec. 1995)

4-406. 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 employee status for positions requiring a CDL [or for a position in the fire department, police department, gas department, and transit department], who have received a conditional offer of employment with the Town of Carthage, must take a drug test before receiving a final offer of employment.

(b) Transfer. Employees transferring to the [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 Carthage 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 Carthage 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 (incidents) 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 Carthage to the designated urine specimen collection site within 32 hours following the accident. (Note: DOT regulations allow up to 32 hours for drug tests. A lesser time provision is optional.) In the event of an accident (incident) occurring after regular work hours, the employee(s) 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 Carthage 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 Carthage 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 Carthage 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 Carthage 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 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. Employees of the Town of Carthage possessing or wishing to obtain a commercial driver's license (CDL) are subject to random urine drug testing, however, it shall be the Town of Carthage's policy to have random urine drug testing of all town employees. It is the policy of the Town of Carthage to annually random test for drugs at least 50 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

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 Carthage 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 Carthage who has violated the prohibited drug conduct standards and is allowed to return to work, must submit to a return-to-duty test. Follow-up test 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 mayor. The following is a list of drugs for which tests will be routinely conducted (see Appendix A for cutoff levels):¹

- (a) Amphetamines,
- (b) Marijuana,
- (c) Cocaine,
- (d) Opiates,
- (e) Phencyclidine (PCP),
- (f) Alcohol, and
- (g) 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 be taken by a supervisor or designated personnel of the Town of Carthage to a drug test collection facility selected by the Town of Carthage (see Appendix B),² 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 Carthage 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) (see Appendix C).³

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.

¹Appendix A to the drug and alcohol testing policy is of record in the office of the city recorder.

²Appendix B to the drug and alcohol testing policy is of record in the office of the city recorder.

³Appendix C to the drug and alcohol testing policy is of record in the office of the city recorder.

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 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 mayor.

(5) Reporting and reviewing. The Town of Carthage shall designate a medical review officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders (see Appendix C).¹

(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 Carthage.

(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 mayor, and the employee.

(d) Neither the Town of Carthage, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney. (Ord. #268, Dec. 1995, modified)

4-407. 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.

¹Appendix C to the drug and alcohol testing policy is of record in the office of the city recorder.

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 of the Town of Carthage 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 Carthage 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 Carthage 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 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 Carthage 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 Carthage 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 Carthage 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 mayor within eight hours of the decision to test and before the results of the tests are received by the department.

(c) Random testing. Employees of the Town of Carthage possessing or wishing to obtain a commercial driver's license (CDL) are subject to random alcohol testing. However, it shall be the Town of Carthage's policy to have random alcohol testing of all town employees. It is the policy of the Town of Carthage 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).

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 Carthage 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 Carthage 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 Carthage shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA). (Note: A town's own public safety department cannot do this testing unless the test is required because of a traffic accident (incident).)

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

(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 Carthage up to and including termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 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 Carthage.

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 Carthage, when possible.

The completed breath alcohol test form shall be submitted to the mayor. (Ord. #268, Dec. 1995, modified)

4-408. 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 Carthage 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, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;
- (c) The Town of Carthage 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. #268, Dec. 1995)

4-409. 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 Carthage 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 town 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 technicians shall provide a written statement to the town indicating a refusal to test. (Ord. #268, Dec. 1995)

4-410. Voluntary disclosure of drug and/or alcohol use. In the event that an employee of the Town of Carthage 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 Carthage. 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 Carthage 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 paid/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 Carthage. 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 Mayor of the Town of Carthage 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 Carthage. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy. (Ord. #268, Dec. 1995)

4-411. 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. #268, Dec. 1995)

4-412. Modification of policy. This statement of policy may be revised by the Town of Carthage 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 Carthage. (Ord. #268, Dec. 1995)