

**TITLE 4**

**MUNICIPAL PERSONNEL**

**CHAPTER**

1. PERSONNEL POLICY.
2. SOCIAL SECURITY.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

**CHAPTER 1**

**PERSONNEL POLICY**

**SECTION**

4-101. Established by resolution.

**4-101. Established by resolution.** Personnel administration for the City of Friendsville is established by Resolution #98-06, adopted on June 25, 1998, and amendments thereto.<sup>1</sup>

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<sup>1</sup>Resolution #98-06, and any amendments thereto, are available in the office of the recorder.

## CHAPTER 2

### SOCIAL SECURITY

#### SECTION

- 4-201. Policy and purpose as to coverage.
- 4-202. Necessary agreements to be executed.
- 4-203. Withholdings from salaries or wages.
- 4-204. Appropriations for employer's contributions.
- 4-205. Records and reports to be made.
- 4-206. Exclusions.

**4-201. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of the City of Friendsville, Tennessee, to extend at the earliest date, to employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1952 Code, § 3-3(1))

**4-202. 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. (1952 Code, § 3-3(2))

**4-203. 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. (1952 Code, § 3-3(3))

**4-204. 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. (1952 Code, § 3-3(4))

**4-205. Records and reports to be made.** The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1952 Code, § 3-3(5))

**4-206. Exclusions.** (1) There is hereby excluded from this chapter any authority to make any agreement with respect to any position, or any employee or official, there covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the city.

(2) There is hereby excluded from this chapter any authority to make any agreement with respect to any position, or any employee or official, compensation for which is on a fee basis, or any position, or any employee or official, not authorized to be covered by applicable state or federal laws or regulations. (1952 Code, § 3-3(6) & (7))

## CHAPTER 3

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### SECTION

- 4-301. Title.
- 4-302. Purpose.
- 4-303. Definitions.
- 4-304. Coverage.
- 4-305. Employer's rights and duties.
- 4-306. Employee's rights and duties.
- 4-307. Standards authorized.
- 4-308. Variances from standards authorized.
- 4-309. Imminent danger.
- 4-310. Inspection.
- 4-311. Citation and hearing.
- 4-312. Penalties.
- 4-313. Recordkeeping and reporting.
- 4-314. Administration.
- 4-315. Compliance with other laws, etc.

**4-301. Title.** This chapter shall be known as "The Occupational Safety and Health Program for the Employees of the City of Friendsville." (Ord. #74-9, Jan. 1974)

**4-302. Purpose.** The City of Friendsville, in electing to establish and maintain an effective occupational safety and health program for its employees, shall:

(1) Provide a safe and healthful place and condition of employment.

(2) Acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect employees, with the exception of articles of personal protective equipment which are required by regulation to be purchased by employees, as soon as the city can investigate the availability and the most economical cost of the aforesaid.

(3) Make, keep, preserve, and make available to the State Commissioner of Labor, his designated representative or persons within the agency to whom such responsibilities have been delegated, including the director of the office of occupational safety and health, adequate records of all occupational accidents and personal injuries for proper evaluation and necessary corrective action as required. However, these provisions shall not take effect until and after the city has received and reviewed record keeping forms, procedures, and guidelines provided by the state, and thereafter these provisions shall not take effect until after the city has had a reasonable period of time to

set up and provide for the orderly implementation and use of such records and procedures.

(4) Consult with the state commissioner of labor or his designated representative with regard to the adequacy of the form and content of records.

(5) Consult with the state commissioner of labor or the state commissioner of public health, as appropriate, regarding safety and health problems of the agency which are considered to be unusual or peculiar to the city and are such that they cannot be achieved under a standard promulgated by the state.

(6) Make an annual report to the state commissioner of labor to show accomplishments and progress of the total occupational safety and health program as soon as reasonably possible after the city has implemented the provisions of subsection (3) hereinabove set forth.

(7) 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.

(8) 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 as soon as reasonably possible after the provisions of this chapter have been enacted. (Ord. #74-9, Jan. 1974)

**4-303. Definitions.** For the purpose of this program:

(1) "Commissioner of labor" means the chief executive officer of Tennessee Department of Labor. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of labor.

(2) "Commissioner of public health" means the chief executive officer of the Tennessee Department of Public Health. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of public health.

(3) "Employer" means the City of Friendsville, and shall include each administrative department, commission, board, division, or other agency of the city.

(4) "Director of personnel" means the chief executive officer designated by the City of Friendsville to perform duties or to exercise powers assigned so as to plan, develop, and administer the city's occupational safety and health program.

(5) "Appointing authority" means any city official or group of officials having legally designated powers of appointment, employment, or removal for the specific department, commission, board, division, or other agency of the city.

(6) "Employee" means any person performing services for the City of Friendsville and listed on city payrolls either as part time, seasonal, or

permanent, full-time employees; provided, however, that such definition shall not include independent contractors, their agents, servants, and employees.

(7) "Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(8) "Standard" means an occupational safety and health standard promulgated by the Tennessee State Commissioner of Labor or the State Commissioner of Public Health which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe and healthful employment and places of employment.

(9) "Imminent danger" means any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal enforcement procedures; provided, however, that this definition shall not include hazardous operations which are undertaken for the public's safety and well-being.

(10) "Serious physical harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:

(a) A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger; loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g. leg shattered so severely that mobility would be permanently reduced), or

(b) A part of an internal bodily system would be inhibited in its normal performance to such a degree as to shorten life or cause reduction in physical or mental efficiency; (e.g., lung impairment, causing shortness of breath).

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

(11) "Establishment" or "workplace" means a single physical location where business is conducted or where service or industrial operations are performed. (Ord. #74-9, Jan. 1974)

**4-304. Coverage.** The provisions of this program shall apply to employees of each administrative department, commission, board, division, or other agency of the City of Friendsville. (Ord. #74-9, Jan. 1974)

**4-305. Employer's rights and duties.** Rights and duties of the employer shall include but are not limited to the following provisions:

(1) Employer shall furnish to each of his employees conditions of employment and a place of employment free from known and recognized hazards that are causing or are likely to cause death or serious injury or harm to

employees; provided, however, that employer shall have a reasonable period of time to correct any such hazards.

(2) Employer shall comply with occupational safety and health standards or regulations promulgated pursuant to the State Occupational Safety and Health Act of 1972.

(3) Employer shall assist the State Commissioner of Labor and State Commissioner of Public Health, upon reasonable notice from the said commissioners, in the performance of their inspection duties by supplying necessary information to the commissioners or to their respective assistants or deputies.

(4) Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearings on proposed standards, or by requesting the development of standards on a given issue.

(5) Employer is entitled to request an order granting a variance from an occupational safety and health standard.

(6) Employer is entitled to protection of his trade secrets and other legally privileged communications.

(7) Employer shall inspect all installations, departments, bureaus, and offices to insure the provisions of this program are complied with and carried out as soon as reasonably possible after the provisions of this chapter have been fully implemented.

(8) Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard of corrective action being taken by the city. (Ord. #74-9, Jan. 1974)

**4-306. Employee's rights and duties.** Rights and duties of employees shall include but are not limited to the following provisions:

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

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

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

(4) Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the director of personnel.

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

reasonably possible after the provisions of this chapter have been fully implemented.

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

(7) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under or relating to this program.

(8) Any employee who believes that he or she has been discriminated against or discharged in violation of any of these sections may, within thirty (30) days after such violation occurs, file a complaint with the Director of Personnel of the City of Friendsville.

(9) Nothing in this section or any other provision of this program shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, and except when such medical examination is reasonably required for performance of a specified job. (Ord. #74-9, Jan. 1974)

**4-307. Standards authorized.** The standards adopted by the City of Friendsville are the applicable State of Tennessee safety and health standards developed under section 6 of the State Occupational Safety and Health Act of 1972. (Ord. #74-9, Jan. 1974)

**4-308. Variances from standards authorized.** The City of Friendsville may, upon written application to the State Commissioner of Labor or the State Commissioner of Public Health, request an order granting a temporary variance from any approved standards. Prior to requesting such temporary variance, the employer shall notify or serve notice to employees or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the city shall be deemed sufficient notice to employees. (Ord. #74-9, Jan. 1974)

**4-309. Imminent danger.** (1) Any allegation of imminent danger received shall be handled in accordance with the following procedures:

(a) The director of personnel shall immediately ascertain whether there is a reasonable basis for the complaint.

(b) If the imminent danger complaint appears to have merit, the director of personnel shall cause an immediate inspection of the alleged imminent danger location.

(c) As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the director of personnel or the compliance inspector shall attempt to have the danger corrected through voluntary compliance. If any employees



appear to be in immediate danger, they should be informed of the danger, and the supervisory personnel in charge should be requested to remove them from the area of immediate danger.

(d) The administrative head of the workplace or his authorized representative is responsible for determining the manner in which he will abate the dangerous condition.

(e) The imminent danger shall be deemed abated if the imminence of the danger has been eliminated by removing the employees from the area of danger or the conditions or practices which resulted in the imminent danger have been eliminated.

(2) The following procedures shall be followed in the event of a refusal to abate: The director of personnel shall take whatever steps are necessary to comply with the abatement procedures set forth in subsection (1)(e) above. (Ord. #74-9, Jan. 1974)

**4-310. Inspection.** (1) In order to carry out the purpose of this program, the director of personnel is authorized:

(a) To enter at any reasonable time any establishment, construction site, plant, or other area, work place, or environment where work is performed by an employee of the City of Friendsville; and,

(b) To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.

(2) If an imminent danger situation is alleged or brought to the attention of the director of personnel during a routine inspection, he shall immediately inspect the imminent danger situation before inspecting the remaining portions of the workplace.

(3) An administrative representative of the city and a representative authorized by the employees may be given an opportunity to consult with or to accompany the director of personnel during the physical inspection of any work place for the purpose of aiding such inspection.

(4) The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.

(5) The inspection shall be such as to preclude unreasonable disruptions of the operations of the work place or establishment.

(6) Interviews of employees during the course of the inspection, when accompanied by an employee representative, may be made when such interviews are essential to the investigation techniques.

(7) Inspections shall be accomplished without advance notice, but the director of personnel may authorize the giving to any supervisor or employee advance notice of an inspection. (Ord. #74-9, Jan. 1974)

**4-311. Citation and hearing.** (1) If, upon an inspection or investigation, the director of personnel finds that any work place is not in compliance with any standard, rule, regulation, or order, and said official is unable to effect a voluntary agreement to bring the work place into compliance, he shall, with reasonable promptness, issue to the administrative officer responsible for the work place a written citation that states the nature and location of the violation; the standard, rule, regulation, or order violated; the abatement and correction requirements; and a period of time during which the work place must accomplish such abatement and correction. A copy of each citation shall immediately be posted at or near each location referred to in the citation and remain posted until the alleged violation has been corrected or vacated.

(2) At any time within ten (10) days after receipt of such citation, anyone affected may advise the director of personnel of objections to the terms and conditions of the citation. Upon receipt of such objections a hearing shall be held, and the director of personnel shall thereafter issue an order affirming, modifying, or vacating the citation, and such order shall be final.

(3) The director of personnel may issue subpoenas pursuant to his duties as set forth herein to require the attendance and testimony of witnesses and the production of evidence under oath at such hearings. (Ord. #74-9, Jan. 1974)

**4-312. Penalties.** (1) The City of Friendsville shall not issue any civil or criminal penalties against any public official, employee, or any other person, administrative department, commission, board, division, or other agency of the City of Friendsville for failure to comply with the safety and health standards.

(2) Any employee who willfully and repeatedly violates or causes to be violated a safety standard, rule, regulation, or order shall be subject to disciplinary action by the appointing authority. The appointing authority has the power to administer discipline, and it shall be his duty to take action in one of the following ways:

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|--------------------|-----------------------|
| (a) Oral reprimand | (b) Written reprimand |
| (c) Suspension     | (d) Termination       |

(3) The employee being disciplined shall have the right of appeal to the director of personnel within ten days after receiving notice of the disciplinary action; and a hearing shall be held as set forth in subsections (2) and (3) of § 4-311. (Ord. #74-9, Jan. 1974)

**4-313. Recordkeeping and reporting.** (1) The City of Friendsville shall establish and maintain a system for collecting, maintaining, and reporting safety and health data as soon as reasonably possible after implementing § 4-302.

(2) All occupational injuries and illnesses shall be reported to the director of personnel on the OSHA forms provided by the State Department of

Labor, except that Workmen's Compensation Form 6A may be used in lieu of the Supplementary Record of Occupational Injury/Illness, Form OSHA No. 101.

(3) The director of personnel shall maintain a continuous log of occupational injuries and illnesses compiled from the reports set forth above and recorded on Form OSHA No. 100.

(4) Such occupational safety and health records shall be maintained for a period of five (5) years following the end of the year to which they relate.

(5) After the provisions of this chapter have been enacted, the City of Friendsville shall report within forty-eight (48) hours, either orally or in writing, to the Commissioner of Labor any accident which is fatal to one or more employees or which results in the hospitalization of five (5) or more employees.

(6) The City of Friendsville shall make an annual report, after the provisions of this chapter have been fully implemented, to the Commissioner of Labor showing the statistical data required by section 50-550-106 (Annual Summary) of the State OSHA Regulations for Recordkeeping and Reporting. (Ord. #74-9, Jan. 1974)

**4-314. Administration.** For the purpose of this chapter, the commissioner of streets is hereby designated as the director of personnel and is likewise designated as the chief executive officer to perform duties or to exercise powers assigned so as to plan, develop, and administer the city's occupational safety and health program.

(1) Upon authorization from the board of commissioners, the director of personnel may designate, appoint, or employ persons as he deems necessary to carry out his powers, duties, and responsibilities under the program.

(2) The director of personnel, to the extent possible, shall recommend the employment of measures to coordinate the activities of all city departments to promote efficiency and to minimize inconvenience under the program.

(3) The director of personnel may delegate the power to make inspections to the compliance inspector(s), provided that the procedures employed are as effective as those employed by the director.

(4) The director of personnel shall develop a plan, pursuant to the city's occupational safety and health program, and such a plan shall be submitted for approval and adopted by the mayor and board of commissioners. Any subsequent changes or modifications in the plan shall also be submitted to the mayor and board of commissioners for approval and adoption.

(5) The city recorder shall upon adoption of the provisions of this chapter immediately register the city's occupational safety and health program with the State Commissioner of Labor, by sending to the Commissioner of Labor by certified mail a written statement which includes:

(a) A statement that the City of Friendsville has elected to develop its own program of compliance;

(b) A statement that such program has been developed and has been reduced to writing;

- (c) A statement of where such writing may be inspected;
- (d) A statement that city employees have been informed of the program and have access to such writing;
- (e) An assurance that the city's program incorporates standards developed pursuant to the State Occupational Safety and Health Act;
- (f) A description of the methods of inspection provided for herein and an assurance that such program includes provisions for inspection and recordkeeping as effective as the provisions of the Tennessee Occupational Safety and Health Act of 1972. (Ord. #74-9, Jan. 1974)

**4-315. Compliance with other laws, etc.** (1) Compliance with any other law, statute or ordinance which regulates safety and health in employment and places of employment shall not excuse the City of Friendsville or any city employee, or any other person from compliance with the provisions of this program.

(2) Compliance with any other law, statute, or ordinance which regulates safety and health in employment and places of employment shall not excuse the City of Friendsville or any city employee, or any other person from compliance with any state law or city ordinance regulating and promoting safety and health unless such law or resolution is specifically repealed. (Ord. #74-9, Jan. 1974)