

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

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CHAPTER 1

WORK, VACATION AND SICK LEAVE, AND HOLIDAY REGULATIONS

SECTION

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4-101. Applicability of chapter. This chapter shall apply to all full-time municipal officers and employees. (1989 Code, § 1-601)

4-102. Work attendance. All full-time employees of the city shall be in attendance at their regular work and at their regular place of work as may be designated by the department head under whose supervision such employees shall work. (1989 Code, § 1-602)

4-103. Holidays. (1) Except and in addition to such other holidays as may be from time-to-time declared by the board of mayor and aldermen, the following days shall be official holidays for employees:

<u>Holiday Name</u>	<u>Holiday Date</u>
New Year's Day	January 1st of each year
Good Friday	Friday before Easter of each year

Memorial Day	Last Monday in May of each year
Independence Day	July 4th of each year
Labor Day	First Monday in September of each year
Thanksgiving Day	Fourth Thursday in November of each year
Christmas Day	December 25th of each year

(2) When a holiday falls on a Saturday, the preceding Friday shall be observed as the holiday, and when a holiday falls on a Sunday, the following Monday shall be observed as the holiday.

(3) All full-time employees of the city shall be compensated for any holiday granted in this chapter or otherwise designated by the board of mayor and aldermen by receiving eight (8) hours off with pay on the date of the holiday. However, in the interest of continuing essential municipal services, any city employee may be required to work on any holiday. Working on any holiday is a condition of employment for all city employees.

(4) No employee shall be authorized to work on a holiday without the prior command or approval of the head of the department for whom the employee works. However, the board of mayor and aldermen may from time to time prescribe such other rules, regulations and limitations on overtime work as it desires.

(5) Any employee who is absent without leave on any working day immediately preceding or immediately following any holiday shall not be entitled to be paid for such holiday. (1989 Code, § 1-603)

4-104. Vacation leave. (1) All regular and full-time employees of the city who have been employed by the city for one full year of continuous service shall be allowed vacation leave time with pay according to the following schedule:

<u>Years of Service</u>	<u>Annual Vacation Leave Time</u>
1 year	5 working days
2 years and over	10 working days

For vacation leave purposes the term "working day" as it applies herein shall be computed on an eight (8) hours basis.

(2) Vacation leave compensation shall be computed at the employee's regular straight time pay rate in effect as of the date that the vacation leave time is earned.

(3) The date of service to be used in determining vacation leave time accrual rate is the beginning date of the employee's current period of continuous service or the date on which the employee was initially employed or appointed, whichever is more recent.

(4) An employee shall not be eligible to take vacation leave until he or she has had one (1) year continuous employment.

(5) Vacation leave may not be taken before it is earned.

(6) Temporary, casual or part-time employees are not eligible for accrual of vacation leave.

(7) For vacation purposes, any reinstated employee shall be considered as a new employee regardless of the reason for separation.

(8) Earned vacation leave may be taken in whole or in part throughout the year at such times as may be approved by the head of the department for which such employee works. No less than one (1) day may be taken at any one time. In the case of employees who handle receipt of payments of taxes, water bills, court fines, or other funds being paid over to the city, such employees shall not take any vacation time of less than five (5) days at one period.

(9) No more than twenty (20) eight (8) hour days of vacation leave may be accumulated by any employee.

(10) Any official holiday falling within a period of vacation leave shall be charged as holiday leave rather than vacation leave.

(11) Any regular, full-time employee who is separated from employment with the city for any reason, including retirement, may receive terminal vacation leave pay for any unused portion of his or her accumulated vacation leave up to the limit of vacation leave allowed to be accumulated under this chapter. (1989 Code, § 1-604, as amended by Ord. #46-05, Sept. 2005)

4-105. Sick leave. (1) All full-time employees of the city shall be allowed to accumulate sick leave with pay at the rate of one (1) eight (8) hour working day for each full calendar month of service completed up to an unused maximum of forty (40) eight (8) hour working days. Sick leave shall be considered a benefit and privilege and not a right for the employee to use at his or her discretion. Employees, therefore, shall utilize their accumulated sick leave allowance for absences due to personal illness or physical incapacity, personal illness or physical incapacity within the immediate family of the employee (as defined in § 4-105(3)), enforced quarantine of the employee in accordance with community health regulations, disability resulting from pregnancy, childbirth or related medical conditions, or so to keep an appointment with a licensed medical doctor, dentist, or other recognized health care practitioner.

(2) The board of mayor and aldermen may, in its discretion, prescribe regulations requiring that a health care practitioner's certificate or other satisfactory evidence be filed with the city supporting the absence before it may be properly chargeable as sick leave.

(3) For sick leave purposes the term "working day" as it applies in this section shall be computed on an eight (8) hour basis. The term "immediate family" shall be defined as spouse, children, parents, brothers and sisters, and grandparents, both of the employee and spouse of the employee.

(4) Sick leave compensation shall be figured at the employee's straight time pay rate in effect at the date it is used by the employee.

(5) The date of service to be used in determining sick leave time accrual rate is the beginning date of the employee's current period of continuous service or the date on which the employee was initially employed or appointed, whichever is more recent.

(6) Sick leave shall begin to accrue on the first day of the month next following the first full calendar month of employment.

(7) Temporary, casual or part-time employees are not eligible for accrual of sick leave.

(8) For sick leave purposes any reinstated employee shall be considered as a new employee regardless of the reason for his or her separation.

(9) Any employee who abuses these sick leave provisions or who deliberately makes or cause to be made any false or misleading statement or claim concerning the same, shall be subject to the loss of any such benefits, dismissal from his or her employment with the city or other disciplinary action.

(10) Any employee of the city who is injured when engaging in his employment for the city may be carried on sick leave for any accumulated sick leave that he or she has to his or her credit, but in no case shall any employee be allowed to receive sick leave pay while drawing any workers compensation or other disability payments resulting from any benefit provided by the city. (1989 Code, § 1-605, as amended by Ord. #46-05, Sept. 2005)

4-106. Absence without leave. An absence without leave is an absence from duty which was not authorized or approved and for which either a request for leave was not made by the employee, or when made such request was denied. Under such circumstances any employee may be subject to such disciplinary action, including termination from employment with the city, as the board of mayor and aldermen deems necessary or appropriate. (1989 Code, § 1-606)

4-107. Absence without pay. An absence without pay is an absence which may or may not have been known and which has resulted from suspension, abandonment of position, or leave without pay granted by the city. The heads of all departments shall be responsible for maintaining accurate records of any employee who is absent from duty for any reason and shall promptly report the same to the mayor. (1989 Code, § 1-607)

4-108. Leave without pay. A regular or part-time employee who is in good standing may be granted a leave without pay for a period not to exceed

ninety (90) calendar days in any one calendar year upon the approval of the board of mayor and aldermen. (1989 Code, § 1-608)

CHAPTER 2

PERSONNEL REGULATIONS

SECTION

- 4-201. Applicability of chapter.
- 4-202. Acceptance of gratuities.
- 4-203. Outside employment.
- 4-204. Use of municipal time, facilities, etc.
- 4-205. Use of position.
- 4-206. Strikes.
- 4-207. Discrimination prohibited.

4-201. Applicability of chapter. This chapter shall apply to all full-time city officers and employees. (1989 Code, § 1-701)

4-202. Acceptance of gratuities. No city 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. (1989 Code, § 1-702)

4-203. Outside employment. No full-time officer or employee of the city shall continue any outside employment if the work interferes with the satisfactory performance of the officer's or employee's duties. In addition, no such employee shall accept any outside employment if the work is incompatible with his city employment, or is likely to cast discredit upon or create embarrassment for the city. (1989 Code, § 1-703)

4-204. Use of municipal time, facilities, etc. No city 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. (1989 Code, § 1-704)

4-205. Use of position. No city officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the city, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others. (1989 Code, § 1-705)

4-206. Strikes. No city officer or employee shall participate in any strike against the city. (1989 Code, § 1-706)

4-207. Discrimination prohibited. The City of Puryear is an equal opportunity employer. Illegal discrimination will not be tolerated.

The City of Puryear 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, sex, or national origin, or because the individual is forty (40) or more years of age.

The City of Puryear will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training, and other terms, condition, and privileges of employment.

CHAPTER 3

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-301. Enforcement.
- 4-302. Travel policy.
- 4-303. Travel reimbursement rate schedule.
- 4-304. Administrative procedures.

4-301. Enforcement. The chief administrative officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #16-93, July 1993)

4-302. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

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

(6) To qualify for reimbursement, travel expenses must be:

(a) Directly related to the conduct of the city business for which travel was authorized, and

(b) Actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of \$5 or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the city aren't ordinarily considered eligible expenses for reimbursement. (Ord. #16-93, July 1993)

4-303. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the state travel regulation rates. The city's travel reimbursement rates will automatically change when the state rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #16-93, July 1993)

4-304. Administrative procedures. The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (Ord. #16-93, July 1993)

CHAPTER 4**SOCIAL SECURITY****SECTION**

4-401. Election workers excluded from coverage.

4-401. Election workers excluded from coverage. The mayor is authorized and directed to execute an amendment to said agreement of 01/01/56 to exclude from coverage under the Federal System of Old Age, Survivors, Disability, Health Insurance, the services of an election worker and an election official if the remuneration paid for such services in a calendar year is less than \$1,000 on or after January 1, 1995, ending on or December 31, 1999 and, the adjusted amount determined under section 218 (c)(8)(B) of the Social Security Act for any calendar year, commencing on or after January 1, 2000, with respect to services performed during any such calendar year. This exclusion to be effective in and after a calendar year in which a state's modification is mailed, or delivered by other means, to the appropriate federal official. (Ord. #20-94, Dec. 1994)

CHAPTER 5

SEXUAL HARASSMENT POLICY

SECTION

4-501. Policy statement.

4-502. Definition.

4-503. Employee complaints.

4-504. Investigation.

4-501. Policy statement. The City of Puryear has a strict policy against sexual harassment. Sexual harassment by any employee will not be tolerated.

4-502. Definition. Sexual harassment is unwanted sexual conduct, or conduct based upon sex, by an employee's supervisor(s) or fellow employees or others at the work place that adversely affects an employee's job or job performance.

Examples of conduct that may constitute sexual harassment are: sexual advances, requests for sexual favors, propositions, physical touching, sexually provocative language, sexual jokes, and display of sexually-oriented pictures or photographs.

4-503. Employee complaints. Any employee who believes that he or she has been subjected to sexual harassment should immediately report this to the mayor or city recorder. The City of Puryear 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.

4-504. Investigation. The City of Puryear will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. In doing the investigation the City of Puryear will try to be fair to all parties involved.

If the City of Puryear determines that sexual harassment has occurred, corrective action will be taken. This corrective action may include a reprimand, demotion, discharge, or other appropriate action. The City of Puryear will attempt to make the corrective action reflect the severity of the conduct.

If it is determined that no harassment has occurred or that there is not sufficient evidence that harassment occurred, this will be communicated to the employee who made the complaint, along with the reasons for this determination.

CHAPTER 6

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-601. Purpose and coverage.
- 4-602. Definitions.
- 4-603. Employer's rights and duties.
- 4-604. Employee's rights and duties.
- 4-605. Administration.
- 4-606. Standards authorized.
- 4-607. Variance procedure.
- 4-608. Recordkeeping and reporting.
- 4-609. Employee complaint procedure.
- 4-610. Education and training.
- 4-611. General inspection procedures.
- 4-612. Imminent danger procedures.
- 4-613. Abatement orders and hearings.
- 4-614. Penalties.
- 4-615. Confidentiality of privileged information.
- 4-616. Compliance with other laws not excused.

4-601. Purpose and coverage. The purpose of this plan is to provide guidelines and procedures for implementing the occupational safety and health program for the employees of Puryear.

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

The City of Puryear in electing to update and maintain an effective occupational safety and health program for its employees:

- (1) Provide a safe and healthful place and condition of employment.
- (2) Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the commissioner of labor and workforce development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the director of the division of occupational safety and health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the commissioner of labor and workforce development or his designated representative with regard to the adequacy of the form and content of such records.
- (5) Consult with the commissioner of labor and workforce development regarding safety and health problems which are considered to be unusual or

peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the state.

(6) Assist the commissioner of labor and workforce development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.

(7) Make a report to the commissioner of labor and workforce development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program.

(8) Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health. (as added by Ord. #44-05-B, April 2005)

4-602. Definitions. For the purposes of this program, the following definitions apply:

(1) "ACT" or "TOSHAct" shall mean the Tennessee Occupational Safety and Health Act of 1972.

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

(3) "Chief executive officer" means the chief administrative official, county judge, county chairman, mayor, city manager, general manager, etc., as may be applicable.

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

(5) "Director of occupational safety and health" or "director" means the person designated by the establishing ordinance or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for the employees of City of Puryear.

(6) "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

(7) "Employer" means the City of Puryear and includes each administrative department, board, commission, division, or other agency of the City of Puryear.

(8) "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.

(9) "Governing body" means the county quarterly court, board of aldermen, board of commissioners, city or town council, board of governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.

(10) "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.

(11) "Inspector(s)" means the individual(s) appointed or designated by the director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the director of occupational safety and health.

(12) "Person" means one (1) or more individual, partnership, association, corporation, business trust, or legal representative of any organized group of persons.

(13) "Serious injury" or "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(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced); or

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

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

(14) "Standard" means an occupational safety and health standard promulgated by the commissioner of labor and workforce development in accordance with section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one (1) or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment. (as added by Ord. #44-05-B, April 2005)

4-603. 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 employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

(2) Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.

(3) Employer shall refrain from any unreasonable restraint on the right of the commissioner of labor and workforce development to inspect the employer's place(s) of business. Employer shall assist the commissioner of labor and workforce development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.

(4) Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under section 6 of the Tennessee Occupational Safety and Health Act of 1972.

(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 its legally privileged communication.

(7) Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.

(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 and of corrective action being taken.

(9) Employer shall notify all employees of their rights and duties under this program. (as added by Ord. #44-05-B, April 2005)

4-604. 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 act standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.

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

(3) Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.

(4) Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the commissioner of labor and workforce development or whoever is responsible for the promulgation of the standard or the granting of the variance.

(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 any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.

(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 and to consult with the director or inspector at the time of the physical inspection of the worksite.

(7) Any employee may bring to the attention of the director any violation or suspected violations of the standards or any other health or safety hazards.

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

(9) Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (8) of this section may file a complaint alleging such discrimination with the director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the commissioner of labor and workforce development alleging such discrimination.

(10) Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specific job.

(11) Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the director within twenty-four (24) hours after the occurrence. (as added by Ord. #44-05-B, April 2005)

4-605. Administration. (1) The director of occupational safety and health is designated to perform duties or to exercise powers assigned so as to administer this occupational safety and health program.

(a) The director may designate a person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.

(b) The director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the director.

(c) The director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.

(d) The director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.

(e) The director shall prepare the report to the commissioner of labor and workforce development required by § 4-601(7) of this plan.

(f) The director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.

(g) The director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.

(h) The director shall maintain or cause to be maintained records required under § 4-608 of this plan.

(i) The director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three (3) or more employees, insure that the commissioner of labor and workforce development receives notification of the occurrence within eight (8) hours.

(2) The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.

(a) The administrative or operational head shall follow the directions of the director on all issues involving occupational safety and health of employees as set forth in this plan.

(b) The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the director within the abatement period.

(c) The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to

become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.

(d) The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the director along with his findings and/or recommendations in accordance with Appendix V¹ of this plan. (as added by Ord. #44-05-B, April 2005)

4-606. Standards authorized. The standards adopted under this program are the applicable standards developed and promulgated under section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. (as added by Ord. #44-05-B, April 2005)

4-607. Variance procedure. The director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The director should definitely believe that a variance is needed before the application for a variance is submitted to the commissioner of labor and workforce development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

(1) The application for a variance shall be prepared in writing and shall contain:

(a) A specification of the standard or portion thereof from which the variance is sought.

(b) A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.

(c) A statement of the steps the employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.

(d) A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.

(e) A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other

¹Appendix V is included in this municipal code in Appendix A.

appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the commissioner of labor and workforce development for a hearing.

(2) The application for a variance should be sent to the commissioner of labor and workforce development by registered or certified mail.

(3) The commissioner of labor and workforce development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

(a) The employer:

(i) Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.

(ii) Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.

(iii) Has an effective program for coming into compliance with the standard as quickly as possible.

(b) The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.

(4) A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.

(5) Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.

(6) The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (1)(e) of this section). (as added by Ord. #44-05-B, April 2005)

4-608. Recordkeeping and reporting. (1) Recording and reporting of all occupational accidents, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970 (Revised 2003) or as may be prescribed by the Tennessee Department of Labor and Workforce Development.

(2) The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix V¹ to this plan.

(3) Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix V to this plan. (as added by Ord. #44-05-B, April 2005)

4-609. Employee complaint procedure. If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the director of occupational safety and health.

(1) The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see § 4-601(8) of this plan).

(2) Upon receipt of the complaint letter, the director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

(3) If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the chief executive officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.

(4) The chief executive officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.

(5) After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the commissioner of labor and workforce development. Any complaint filed with the commissioner of labor and workforce development in such cases shall include

¹Appendix V is included in this municipal code in Appendix A.

copies of all related correspondence with the director and the chief executive officer or the representative of the governing body.

(6) Copies of all complaints and answers thereto will be filed by the director who shall make them available to the commissioner of labor and workforce development or his designated representative upon request. (as added by Ord. #44-05-B, April 2005)

4-610. Education and training. (1) Director and/or compliance inspector(s). (a) Arrangements will be made for the director and/or compliance inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.

(b) Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

(2) All employees (including managers and supervisory personnel). A suitable safety and health training program for employees will be established. This program will, as a minimum:

(a) Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employee's work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury (such as falls, electrocution, crushing injuries (e.g., trench cave-ins), and being struck by material or equipment).

(b) Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances (including carbon monoxide and chlorine) in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, personal hygiene, etc., which may be required.

(c) Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.

(d) Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in subparts H and M and other applicable subparts of TOSHAct standards (1910 and/or 1926).

(e) Instruct employees on hazards and dangers of confined or enclosed spaces.

(i) Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient

atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.

(ii) Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.

(iii) The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment. (as added by Ord. #44-05-B, April 2005)

4-611. General inspection procedures. It is the intention of the governing body and responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

(1) In order to carry out the purposes of this program, the director and/or compliance inspector(s), if appointed, is authorized:

(a) To enter at any reasonable time any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer; and

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

(2) If an imminent danger situation is found, alleged, or otherwise brought to the attention of the director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with § 4-612 of this plan before inspecting the remaining portions of the establishment, facility, or worksite.

(3) An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director or inspector during the physical inspection of any worksite 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 conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.

(6) Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.

(7) Advance notice of inspections. (a) Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment.

(b) There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.

(8) The director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:

(a) Inspections conducted by supervisors or other personnel are at least as effective as those made by the director.

(b) Records are made of the inspections and of any discrepancies found and are forwarded to the director.

(9) The director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the commissioner of labor and workforce development or his authorized representative. (as added by Ord. #44-05-B, April 2005)

4-612. Imminent danger procedures. (1) Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:

(a) The director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.

(b) If the alleged imminent danger situation is determined to have merit by the director, he shall make or cause to be made 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 or compliance inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

(d) The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director or compliance inspector and to the mutual satisfaction of all parties involved.

(e) The imminent danger shall be deemed abated if:

(i) The imminence of the danger has been eliminated by removal of employees from the area of danger.

(ii) Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.

(f) A written report shall be made by or to the director describing in detail the imminent danger and its abatement. This report will be maintained by the director in accordance with § 4-611(9) of this plan.

(2) Refusal to abate. (a) Any refusal to abate an imminent danger situation shall be reported to the director and/or chief executive officer immediately.

(b) The director and/or chief executive officer shall take whatever action may be necessary to achieve abatement. (as added by Ord. #44-05-B, April 2005)

4-613. Abatement orders and hearings. (1) Whenever, as a result of an inspection or investigation, the director or compliance inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the director shall:

(a) Issue an abatement order to the head of the worksite.

(b) Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

(2) Abatement orders shall contain the following information:

(a) The standard, rule, or regulation which was found to be violated.

(b) A description of the nature and location of the violation.

(c) A description of what is required to abate or correct the violation.

(d) A reasonable period of time during which the violation must be abated or corrected.

(3) At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final. (as added by Ord. #44-05-B, April 2005)

4-614. Penalties. (1) No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.

(2) Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one (1) of the following ways as appropriate and warranted:

- (a) Oral reprimand;
- (b) Written reprimand;
- (c) Suspension for three (3) or more working days;
- (d) Termination of employment. (as added by Ord. #44-05-B,

April 2005)

4-615. Confidentiality of privileged information. All information obtained by or reported to the director pursuant to this plan of operation or the legislation (ordinance or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the commissioner of labor and workforce development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972. (as added by Ord. #44-05-B, April 2005)

4-616. Compliance with other laws not excused. (1) Compliance with any other law, statute, ordinance, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.

(2) Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the

employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed. (as added by Ord. #44-05-B, April 2005)