

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

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CHAPTER 1

SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

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4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the city to provide for all eligible employees and officials of the city, 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 city 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 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. (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 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. (1983 Code, § 1-705)

CHAPTER 2

PERSONNEL RULES AND REGULATIONS

SECTION

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4-201. Purpose. The purpose of this chapter is to establish a system of personnel administration in the City of Dyer that is based on merit and fitness. The system shall provide means to select, develop, and maintain an effective municipal work force through the impartial application of personnel policies and procedures free of personal and political considerations and regardless of race, sex, age, creed, national origin, or handicapping condition. (Ord. #93-44, March 1993)

4-202. Coverage. All offices and positions of the municipal government are divided into the classified service and the exempt service. The classified service shall include all regular full-time and regular part-time positions in the city's service unless specifically placed in the exempt service. All offices and positions of the municipal government placed in the exempt service are as follows:

- (1) All elected officials.
- (2) Members of appointed boards and commissions.
- (3) Consultants, advisers, and legal counsel rendering temporary professional service.
- (4) The city attorney.
- (5) Independent contractors.
- (6) Persons employed by the municipality for not more than three months during a fiscal year.
- (7) Part-time employees paid by the hour of the day, and not considered regular.
- (8) Volunteer personnel appointed without compensation.
- (9) The city judge.
- (10) [Deleted.]

All employment positions of the municipal government not expressly exempted from coverage by this section shall be subject to the provisions of the city charter. (Ord. #93-44, March 1993, as amended by Ord. #2001-114, June 2001)

4-203. Department heads. For the purpose of this chapter, the individuals occupying the following positions shall be deemed "department heads" as the term department is used within this chapter:

- (1) Chief of police.
- (2) Public works supervisor.
- (3) City recorder.
- (4) Fire chief. (Ord. #93-44, March 1993)

4-204. Classes of employees. (1) Regular full time. Full-time employees are individuals employed by the municipal government who work more than 35 hours per week and have completed a 3 month probationary period.

(2) Regular part time. Temporary part-time employees are individuals who do not work on a daily basis and whose hours cannot exceed 20 hours per week unless approved by the mayor. (Ord. #93-44, March 1993)

4-205. Hiring procedures. (1) Policy statement. The primary objective of this hiring policy is to insure compliance with the law and to obtain qualified personnel to serve the citizens of the city. Appointments to positions are based on merit, technical knowledge and work experience and no person shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of race, sex, age, color, religion, creed, ancestry, handicapped status, or national origin.

(2) Recruitment. The city will employ only capable and responsible personnel who are of good character and reputation. When a vacancy occurs, the mayor will prepare and post the appropriate position description at various locations in town and in the local media, if necessary, in an effort to bring notice of the vacancy to as many qualified persons as possible.

(3) Application process. All persons seeking appointment or employment with the city shall complete an application form as provided by the municipal government. Applications for employment shall be accepted in the recorder's office during regular office hours only.

(4) Interviews. All appointments are subject to an interview with the mayor and appropriate department head. This subsection does not apply to any position to which the charter of the City of Dyer vests the exclusive power to hire and remove employees from with the mayor.

(5) Appointments. All permanent appointments to positions in the City of Dyer shall be made by the city council. This subsection does not apply to any position to which the charter of the City of Dyer vests the exclusive power to hire and remove employees from with the mayor.

(6) Probation. Applicants appointed to positions with the City of Dyer are required to serve a 3-month probationary period. An employee may be terminated during this period for any reason without respect or reference to the procedures set forth in this document, the charter or other ordinances. If the probationary period is determined satisfactory, the employee is recommended for a full-time appointment.

(7) Physicals. Before appointment, all applicants shall be required to pass a pre-employment physical examination conducted by a licensed physician. Employees may be required to pass periodical physical examinations. (Ord. #93-44, March 1993)

4-206. Compensation. (1) Salaries. The city council shall set all salaries paid by the City of Dyer. Due consideration shall be given to duties performed, responsibilities, technical knowledge and skills required to perform the work satisfactorily, the labor market, and availability of persons having the desired qualifications. This subsection does not apply to any position to which the charter of the City of Dyer vests the exclusive power to hire and remove employees from with the mayor.

(2) Hours of work. The mayor and committee chairman and department head shall establish the hours of work per week for each position in the service or the city. This subsection does not apply to any position to which the charter of the City of Dyer vests the exclusive power to hire and remove employees from with the mayor.

(3) Pay period. The pay period for all full-time employees of the City of Dyer shall begin at 0001 hours each Monday and end at 2400 hours each Sunday. All full-time employees of the City of Dyer shall be paid on a weekly basis.

(4) Payroll deductions. (a) Federal income tax. Federal taxes are withheld from employee's paychecks based on the number of dependents claimed by the individual. Employees are required to keep on file with the municipal government a copy of the W-4 form. In the event of changes in the employee exemption status, a revised W-4 must be filed before payroll deduction adjustments will be made.

(b) Social security. Social security payments and deductions will be made in accordance with the Social Security Act. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

(c) Retirement. Retirement payments and deductions will be made in accordance with Tennessee Code Annotated, title 8, chapters 34 through 37, as they relate to the Tennessee Consolidated Retirement System. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

(d) Others. Other deductions may be made from an employee's pay only with consent of the city council and signed consent from the employee or upon an order from a court with such jurisdiction.

(5) Overtime. Employees who are in a pay status other than sick leave, who are required to work overtime (any pay hours other than sick hours above and beyond forty (40) hours per pay period) shall be compensated at one and one-half time regular rate for overtime hours worked. Exception to this rule are police officers who work forty-three (43) hours per pay period at regular time rate before overtime rate (one and one-half time regular rate) is effective.

(6) Emergency standby call pay. Public works employees who are on emergency standby call, other than regular working hours, receive four (4) hours pay per day at regular time; and when the employee responds to an emergency call the employee is paid at one and one-half time regular hourly rate while on the emergency call. (Ord. #93-44, March 1993, as amended by Ord. #95-64, April 1995; Ord. #96-76, Aug. 1996; and Ord. #2001-114, June 2001)

4-207. Benefits. (1) Eligibility. All full-time employees are eligible for all benefits provided by the city.

(2) Holidays. All offices of the City of Dyer, except emergency and necessary operations, will be closed and employees allowed a day off with pay on the following legal holidays:

New Years's Day	January 1st
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	First Monday in September
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25th

When a legal holiday falls on Saturday, offices will be closed the preceding Friday. When a holiday falls on Sunday, the following Monday will be observed. 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, in order to receive compensation for the holiday.

(3) Vacation leave. All full-time employees who have worked for the municipal government for at least one (1) continuous year of service shall be entitled to five (5) days of vacation with pay per year. After five (5) years of continuous service, full-time employees shall be entitled to ten (10) days of vacation with pay per year. After ten (10) years of continuous service, full-time employees shall be entitled to fifteen (15) days of vacation with pay per year. The vacation period shall be on a calendar-year basis from January 1 through December 31. Employees will become eligible for vacation with pay on the first anniversary date of their employment. Thereafter, as of January 1 of each year, such employees shall become eligible for vacation for the ensuing year. Such

employees shall also become eligible for the additional week of vacation on their fifth and tenth year anniversary dates. Such vacation shall be taken at a time approved by the mayor or such officers as designated. Except in unusual circumstances and written approval of the mayor, vacation leave must be taken between January 1 and December 31 or lost without compensation. Upon separation, employees are entitled to be reimbursed for any unused vacation.

(4) Personal leave. All full-time employees who complete the required 3-month probationary period receive two (2) days of personal leave per calendar year. All full-time employees who complete three (3) years of continued service receive one (1) additional day each year through year five (5). Such personal leave is taken within the calendar year received. Upon separation, employees are entitled to be reimbursed for any unused personal leave days. If personal days are not taken in the calendar year earned, they will be lost without compensation.

(5) Sick leave. All full-time employees shall be given credit for one day of sick leave with pay for each month of work for the municipality. The maximum credit for accrued sick leave shall be 120 days. 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 their 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 (spouse, parents, children).

Upon termination or resignation any unused sick leave shall not be cashed in for compensation.

(6) Funeral leave. Full-time employees shall be allowed one day of leave with pay for the death of an employee's spouse, parents, children, sisters, brothers, in-laws, and grandparents. Employees may elect to take two additional days to be deducted from accumulated sick leave. One day of sick leave is allowed for the death of other relatives of the employee.

(7) Jury duty. All municipal employees who are summoned for jury in accordance with the laws of the State of Tennessee shall report for same at the time and place designated. Should an employee so summoned, not be selected for jury duty, he shall return to work, along with a statement from the proper court official and he shall receive his normal rate of pay, less the jury duty payment. Should the employee be selected to serve on the jury and shall serve during working hours of 7:00 A.M. to 4:00 P.M., the City of Dyer shall then supplement the jury pay so that he receives his normal payment for normal work day.

Should the employee so summoned for jury duty, not selected, and choose not to return to work, no supplemental pay will be authorized.

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

- (a) Answer a subpoena to testify for the city.
- (b) Perform emergency duty for National Defense.

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

"EMPLOYERS MAY DESIGNATE PERIODS OF PERMISSIBLE ABSENTEEISM. Any person entitled to vote in an election held in this state may be absent from any service or employment on the day of the election for a reasonable period of time, not to exceed three hours, necessary to vote during the time the polls are open in the county where he/she is a resident. A voter who is absent from work to vote in compliance with this section may not be subjected to any penalty or reduction in pay for his absence. If the tour of duty of an employee begins three or more hours after the opening of the polls or ends three or more hours before the closing of the polls of the county where he/she is a resident, he/she may not take time off under this section. The employer may specify the hours during which the employee may be absent. Request for such an absence shall be made to the employer before twelve noon of the day before the election."

(10) Worker's compensation. All full-time employees of the City of Dyer are covered under Worker's Compensation insurance.

(11) Other benefits. The City of Dyer provides uniforms for police officers and protective clothing for firefighters.

(12) Retire health insurance. (Ord. #93-44, March 1993, as amended by Ord. #95-64, April 1995; Ord. #96-71, May 1996; Ord. #2001-114, June 2001; and 2004-136, May 2004)

4-208. Separation and disciplinary actions. (1) Types of separations. All separations of employees from positions with the municipal government shall be designated as one of the following types and shall be accomplished in the manner indicated: resignations, lay-offs, disability, death, retirement, suspension, and dismissal. At the time of separation and prior to final payment, all records, assets, and other items of city property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation.

(2) Resignation. In the event an employee decides to leave the municipal government's employ, a two week notice shall be given to his/her supervisor so that arrangements for a replacement can be made. In such a case employees will be expected to return any/or all municipal government equipment assigned. Any unauthorized absence from work for a period of three consecutive working days may be considered by the department head as a resignation.

If a former employee returns to municipal government employment, their status of seniority, pay, leave, etc. will be the same as any new employee beginning work for the first time.

(3) Lay-off. The department head, upon approval from the mayor and council and finance committee may lay-off an employee in the municipal government service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or other material changes in the duties of the organization of the employee's position, or for related reasons that are outside the employees control and that do not reflect discredit upon the service of the employee.

The duties performed by an employee laid off may be assigned to other employees already working who hold position in the appropriate class. Temporary employees shall be laid off prior to the lay-off of probationary or regular employees. The order of layoff shall be in reverse order to total continuous time served upon the date established for the layoff to become effective.

(4) Disability. An employee may be separated for disability when he/she cannot perform required duties because of physical or mental impairment. Action may be initiated by the employee or the municipality, but in all cases it must be supported by medical evidence acceptable to the mayor. The municipal government may require an examination at its expense and performed by a licensed physician of its choice.

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

(6) Disciplinary action. Whenever an employee's performance, attitude, work habits or personal conduct fall below a desirable level, supervisors shall inform employees promptly and specifically of such lapses and shall give them counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. The types of disciplinary actions are:

- (a) Oral reprimand.
- (b) Written reprimand.
- (c) Suspension.
- (d) Dismissal.

(7) Oral reprimand. Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified a reasonable period of time for improvement may be allowed before initiating disciplinary actions.

(8) Written reprimand. In situations where an oral warning has not resulted in the expected improvement, or when more severe initial action is warranted, such as situations where the employee is guilty of misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records in violation of any of the provisions of the charter, ordinances or laws of the United States or State of Tennessee, a written reprimand may be sent to the employee and a copy shall be placed in the employee's personnel folder. Three (3) written reprimands within a twelve (12) month period will result in the immediate suspension of the employee with an automatic recommendation to the city council for dismissal of that employee. A written reprimand may be issued by the employee's department head, the mayor, the committee overseeing the employee's department or the full city council.

(9) Suspension. An employee may be suspended with or without pay, for the reasons enumerated in paragraphs (6) and (8) above, by that employee's department head, the mayor, the committee of the city council overseeing the employee's department or the full city council for a period not to exceed five (5) working days. Suspension of an employee with or without pay for a period of not less than six (6) days nor more than thirty (30) days shall be permitted upon approval of the mayor and the employee's department head, upon approval of the mayor and the committee of the city council overseeing that employee's department, or upon approval of the full city council.

(10) Dismissal. An employee may be dismissed by the full city council for just cause. Just cause may include, but shall not be limited to: misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records and violations of any of the provisions of the charter, ordinances, or the laws of the United States or State of Tennessee.

(11) Appeals process. Any employee receiving a written reprimand, suspension or dismissal who believes that said written reprimand, suspension or dismissal was improper or unjust may appeal the decision to issue the written reprimand, suspension or dismissal as follows:

(a) Appeal to the mayor. Any employee receiving a written reprimand or suspension from his department head who feels said written reprimand or suspension was improper or unjust may appeal the decision of the department head to the mayor by submitting a written notice of appeal to the recorder within (10) days of the receipt of notification of the disciplinary action; the notice of appeal must also state whether the employee intends to have legal representation in his appeal to the mayor. The mayor shall conduct a hearing within ten (10) days of the receipt of the employee's notice of appeal and shall give the employee at least forty-eight (48) hours notice of the time and place of the hearing. The employee and the department head shall be allowed to appear and present their cause to the mayor at said hearing. The employee and department head shall be allowed to have legal representation at said hearing should they so desire.

(b) Appeal to the committee. Any employee receiving a written reprimand or suspension from the mayor who feels said written reprimand or suspension was improper or unjust, or any employee who is dissatisfied with the ruling of the mayor on an appeal of a disciplinary action by a department head, may appeal the decision of the mayor to the committee of the city council overseeing the employee's department by submitting a written notice of appeal to the recorder within ten (10) days of the receipt of notification of the disciplinary action or ruling on appeal; the notice of appeal must also state whether the employee intends to have legal representation in his appeal to the committee. The committee shall conduct a hearing within ten (10) days of the receipt of the employee's notice of appeal and shall give the employee at least forty-eight (48) hours notice of the time and place of the hearing. The employee and the official issuing the disciplinary action shall be allowed to appear and present their case to the committee at said hearing. The employee and the official issuing the disciplinary action shall be allowed to have legal representation at said hearing should they so desire.

(c) Appeal to the city council. Any employee receiving a written reprimand or suspension from the committee who feels said written reprimand or suspension was improper or unjust, or any employee dissatisfied with the ruling of the committee on appeal of a disciplinary action by the mayor or department head, may appeal the decision of the committee to the full city council by submitting a written notice of appeal to the recorder within ten (10) days of the receipt of the notification of the disciplinary action; the notice of appeal must also state whether the employee intends to have legal representation in his appeal to the city council. The city council shall conduct a hearing at its next regular meeting provided, however, that said meeting is not within five (5) days of the receipt of the employee's request for a hearing, in which case the hearing shall be conducted at the following meeting. The employee shall be given at least forty-eight (48) hours notice of the time and place of the hearing. The employee and the official issuing the disciplinary action shall be allowed to have legal representation at said hearing should they so desire. The decision of the full city council shall be final and non-appealable.

(d) Appeal of disciplinary action by city council. Any employee receiving a written reprimand, suspension or dismissal from the full city council without a hearing who feels said written reprimand, suspension or dismissal was improper or unjust may request a hearing before the full city council by submitting a written notice of appeal to the recorder within ten (10) days of the receipt of notification of the disciplinary action; the notice of appeal must also state whether the employee intends to have legal representation at the hearing before the city council. The full city council shall place the matter on the agenda of its next regular

meeting provided, however, that said meeting is not within five (5) days of receipt of the employee's notice of appeal in which case the hearing shall be at the following meeting of the city council. The decision of the full city council shall be final and nonappealable.

(12) Grievance procedures. A grievance is defined as an employee's feeling of dissatisfaction, any difference, disagreements or disputes arising between an employee and his supervision and/or employer with some aspect of his employment, application or interpretation of regulations and policies, or some management decision affecting him. A grievance can be something real, alleged or a misunderstanding concerning rules and regulations or an administrative order involving the employee's health, safety, physical facility, equipment or material use, employee evaluation, promotion, transfer, and any other related items. The definition of a grievance does not include any dissatisfaction with a decision regarding a disciplinary action.

A grievance may be discussed by an employee with the employee's immediate supervision, a higher level supervisor and/or the department head. No employee who files a grievance shall be subjected to interference, restraint, intimidation, discrimination, coercion, or reprisal by any employee or officer of the city.

The grievance procedure shall be as follows:

(a) The employee shall make an oral or written presentation of the complaint or grievance to the employee's department head.

(b) If the grievance is not resolved with the employee's department head, the employee may request in writing a hearing with the mayor by submitting said written request to the recorder. The mayor shall conduct a hearing within ten (10) days of receipt of the grievance by the recorder and shall give the employee at least forty-eight (48) hours notice of the hearing after which, the mayor shall provide a written response to the employee within forty-eight (48) hours with copies to the department head.

(c) If the grievance is not resolved with the mayor, the employee may request a hearing before the committee of the city council overseeing the employee's department by submitting a written request to the recorder. The committee shall schedule a hearing within ten (10) days of receipt of the request and shall give the employee at least forty-eight (48) hours notice of said hearing after which, the committee shall provide a written response within forty-eight (48) hours to the employee with copies to the mayor and department head.

(d) If the grievance is not resolved with the committee of the city council, the employee may request a hearing before the full city council by submitting a written request to the recorder. The full city council shall place the matter on the agenda of its next regular meeting provided, however, that said meeting is not within five (5) days of receipt of the employee's request for a hearing, in which case the hearing shall

be at the following meeting of the city council. The decision of the full city council shall be final and non-appealable.

(13) Employee not to contact mayor or alderman. No employee who is appealing a disciplinary action pursuant to this chapter or who has brought a grievance pursuant to the grievance procedure set out in this chapter, shall contact or discuss with the mayor or any member of the city council the disciplinary action appeal or grievance procedure outside of the scope of the appeal's process and grievance procedure set forth in this chapter. Any such contact or discussion shall constitute grounds for dismissal of said employee. (Ord. 93-44, March 1993, as amended by Ord. #95-64, April 1995)

4-209. Miscellaneous personnel policies. (1) Business dealings. Except for receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the city.

(2) Acceptance of gratuities. No municipal 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 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.

(3) Outside employment. No full-time employee of the city shall accept any outside employment without written authorization from the mayor and department head. The mayor and department head shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the employee's duties, or is incompatible with the employee's municipal employment, or is likely to cause discredit upon or create embarrassment for the municipal government. Approval to work a second job may be withdrawn for any of the reasons above.

(4) Use of municipal time, facilities, etc.. No employee of the City of Dyer shall use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other private person or group.

(5) Political activity. (Nothing in this section is intended to prohibit any municipal government employee from privately expressing his/her political views or from casting his/her vote in all elections).

Municipal government employees are prohibited from participation in municipal office elections or campaigns while on duty or in uniform.

(6) Use of position. No municipal employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the city, nor shall he otherwise use privileges or exemptions for himself or others.

(7) Employee absence. All municipal employees shall report for duty at the time and duty station set forth by their supervisor, the municipal officers,

or the city council. Any employee failing to report at the appointed time and place must have a reason therefor and must notify the supervisor or other municipal officer in charge for the reason of that absence. For any unexcused absence, the employee shall be given an oral reprimand for the first unexcused absence; for a second unexcused absence, the employee shall be given an official written reprimand with two (2) days suspension from the job without pay. On the third occasion for an unexcused absence by the employee, he shall be given a notice of termination from work.

(8) Drugs or intoxicants. All municipal employees shall report for duty at their work station in fit physical condition to perform their duties. Any person reporting for duty under the influence of drugs or intoxicants shall be given a written reprimand and a three (3) day suspension from work without pay. On the 2nd occasion that an employee reports for duty under the influence of drugs or intoxicants, he shall be given notice of termination from work immediately. On any occasion that a municipal employee appears to be under the influence of drugs or intoxicants in violation of city ordinance or state law, that information shall be relayed to the appropriate police authorities immediately for any and all action directed by ordinance or the statutes of the State of Tennessee. Exceptions to the above enumerated policy shall be when an employee, under doctor's directions, shall be taking medication and in accordance with physicians' directives, the employee is certified fit for duty. (Ord. #93-44, March 1993)

4-210. Nepotism prohibited. The City of Dyer shall not show favoritism in the recruitment or employment of municipal employees nor in their supervision. Immediate family members of the mayor, the aldermen, city recorder, or a city department head, shall not be employed by the City of Dyer unless no other qualified applicants are available. For the purpose of this section, the term "immediate family member" shall mean the spouse, mother, father, brother, sister, children, grandparents, grandchildren, guardian, step-mother, step-father, step-brother, step-sister, half-brother, half-sister, child or step-child, uncle, aunt, nephew, niece or any person having the same relationship with the mayor's or an alderman's spouse. (as added by Ord. #2004-142, Nov. 2004)

CHAPTER 3

INFECTIOUS DISEASE CONTROL POLICY

SECTION

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4-301. Purpose. It is the responsibility of the City of Dyer to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of Dyer, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB). (Ord. #92-43, Jan. 1993)

4-302. Coverage. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to infectious material from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Health clinic nurses;

- (2) Police officers;
- (3) Firefighters;
- (4) Any other employee deemed to be at high risk per this policy and an exposure determination. (Ord. #92-43, Jan. 1993)

4-303. Administration. This infection control policy shall be administered by the mayor or his/her designated representative who shall have the following duties and responsibilities:

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the city charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be required. (Ord. #92-43, Jan. 1993)

4-304. Definitions. (1) "Body fluids" - fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

(2) "Exposure" - the contact with blood or other potentially infectious materials to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individual's normal job duties.

(3) "Hepatitis B Virus (HBV)" - a serious blood-borne virus with potential for life-threatening complications. Possible complications include: massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.

(4) "Human Immunodeficiency Virus (HIV)" - the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through

sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

(5) "Tuberculosis (TB)" - an acute or chronic communicable disease that usually affects the respiratory system, but may involve any system in the body.

(6) "Universal precautions" - refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with potentially infectious materials to be protected as though such body fluid were HBV or HIV infected. (Ord. #92-43, Jan. 1993)

4-305. Policy statement. All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (Ord. #92-43, Jan. 1993)

4-306. General guidelines. General guidelines which shall be used by everyone include:

(1) Think when responding to emergency calls and exercise common sense when there is potential exposure to blood or other potentially infectious materials which require universal precautions.

(2) Keep all open cuts and abrasions covered with adhesive bandages which repel liquids.

(3) Soap and water kill many bacteria and viruses on contact. If hands are contaminated with blood or other potentially infectious materials to which universal precautions apply, then wash immediately and thoroughly. Hands shall also be washed after gloves are removed even if the gloves appear to be intact. When soap and water or handwashing facilities are not available, then use a waterless antiseptic hand cleaner according to the manufacturers recommendation for the product.

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After

they are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

(5) The city will provide gloves of appropriate material, quality and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or other potentially infectious materials to which universal precautions apply:

(a) While handling an individual where exposure is possible;

(b) While cleaning or handling contaminated items or equipment;

(c) While cleaning up an area that has been contaminated with one of the above;

Gloves shall not be used if they are peeling, cracked, or discolored, or if they have punctures, tears, or other evidence of deterioration. Employees shall not wash or disinfect surgical or examination gloves for reuse.

(6) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victims' blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel who provide or potentially provide emergency treatment.

(7) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other potentially infectious materials to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.

(8) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other potentially infectious materials.

(9) Areas and equipment contaminated with blood shall be cleaned as soon as possible. A household (chlorine) bleach solution (1 part chlorine to 10 parts water) shall be applied to the contaminated surface as a disinfectant leaving it on for a least 30 seconds. A solution must be changed and re-mixed every 24 hours to be effective.

(10) Contaminated clothing (or other articles) shall be handled carefully and washed as soon as possible. Laundry and dish washing cycles at 120° are adequate for decontamination.

(11) Place all disposable equipment (gloves, masks, gowns, etc...) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous area".

NOTE: Sharp objects must be placed in an impervious container and properly dispose of the objects.

(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

(a) Tags shall contain a signal word and a major message. The signal word shall be "BIOHAZARD", or the biological hazard symbol. The major message shall indicate the specific hazardous condition or the instruction to be communicated to employees.

(b) The signal word shall be readable at a minimum distance of five (5) feet or such greater distance as warranted by the hazard.

(c) All employees shall be informed of the meaning of the various tags used throughout the workplace and what special precautions are necessary.

(13) Linen soiled with blood or other potentially infectious materials shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage.

The employee responsible for transporting soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and whenever possible, disposable equipment shall be used to minimize and contain clean-up. (Ord. #92-43, Jan. 1993)

4-307. Hepatitis B vaccinations. The City of Dyer shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the Infectious Disease Control Coordinator. (Ord. #92-43, Jan. 1993)

4-308. Reporting potential exposure. City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc...):

(1) Notify the Infectious Disease Control Coordinator of the contact incident and details thereof.

(2) Complete the appropriate accident reports and any other specific form required.

(3) Arrangements will be made for the person to be seen by a physician as with any job-related injury.

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (Ord. #92-43, Jan. 1993)

4-309. Hepatitis B virus post-exposure management. For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (ie., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (Ord. #92-43, Jan. 1993)

4-310. Human immunodeficiency virus post-exposure management. For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested 6 weeks, 12 weeks, and 6 months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first 6-12 weeks after exposure) exposed workers should follow the U.S. Public Health service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure. (Ord. #92-43, Jan. 1993)

4-311. Disability benefits. Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of T.C.A. 50-6-303. (Ord. #92-43, Jan. 1993)

4-312. Training regular employees. On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (Ord. #92-43, Jan. 1993)

4-313. Training high risk employees. In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy. (Ord. #92-43, Jan. 1993)

4-314. Training new employees. During the new employee's orientation to his/her job, all new employee will be trained on the effects of infectious disease prior to putting them to work. (Ord. #92-43, Jan. 1993)

4-315. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc...) shall be recorded.

(3) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.

(4) Employee interviews. Should the city be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (Ord. #92-43, Jan. 1993)

4-316. Legal rights of victims of communicable diseases. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

(1) Officers assume that a certain degree of risk exists in law enforcement and emergency service work and accept those risks with their individual appointments. This holds true with any potential risks of contacting a communicable disease as surely as it does with the risks of confronting an armed criminal.

(2) Any officer who refuses to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall be subject to disciplinary measures along with civil and/or criminal prosecution.

(3) Whenever an officer mentions in a report that an individual has or may have a communicable disease, he shall write "contains confidential medical information" across the top margin of the first page of the report.

(4) The officer's supervisor shall ensure that the above statement is on all reports requiring that statement at the time the report is reviewed and initiated by the supervisor.

(5) The supervisor disseminating newspaper releases shall make certain the confidential information is not given out to the news media.

(6) All requests (including subpoenas) for copies of reports marked "contains confidential medical information" shall be referred to the city attorney when the incident involves an indictable or juvenile offense.

(7) Prior approval shall be obtained from the city attorney before advising a victim of sexual assault that the suspect has, or is suspected of having a communicable disease.

(8) All circumstances, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the appropriate department head or city attorney.

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not

make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

(10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil and/or criminal prosecution. (Ord. #92-43, Jan. 1993)

4-317. Amendments. Amendments or revisions of these rules may be recommended for adoption by any elected official or by department heads. Such amendments or revisions of these rules shall be by ordinance and shall become effective on adoption by the mayor and council. (Ord. #92-43, Jan. 1993)

4-318. Addendum to other manuals. This policy shall become an addendum and/or amendment to the Police Department Policy and Procedures Manual, the Fire Department Policy and Procedures Manual, and the Dyer Clinic Policy and Procedures Manual. (Ord. #92-43, Jan. 1993)

CHAPTER 4

SEXUAL HARASSMENT POLICY

SECTION

- 4-401. General policy.
- 4-402. Definition.
- 4-403. Sexual harassment complaints.
- 4-404. Reporting and investigation of sexual harassment complaints.
- 4-405. Action on complaints of sexual harassment.
- 4-406. Obligation of employees.
- 4-407. Open records.

4-401. General policy. The City of Dyer has a strict policy against sexual harassment. Sexual harassment by or of any employee will not be tolerated.

The sexual harassment of any employee of the City of Dyer by any other employee or non employee is demeaning to both the victim of the harassment and to the city. It can result in high turnover, absenteeism, low morale, and an uncomfortable work environment. Some forms of sexual harassment, including certain kinds of unwelcome physical contact, may also be criminal offenses. The city will not tolerate the sexual harassment of any of its employees, and will take immediate, positive steps to stop when said harassment occurs.

Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964. In some cases it has been found to be a violation the victims' U.S. Constitutional rights. In some states it has been held to be a violation of state, statutory and common law. Successful sexual harassment suits are common and almost always result in money being awarded the victim no matter what legal grounds exist for the suit. Even in sexual harassment suits in which municipalities are successful, the costs of defense are extremely high.

It is not the purpose of this policy to outline the legal grounds for sexual harassment complaints and suits in Tennessee. It is sufficient to say that legal grounds exist in every state in both federal and state courts, and that sexual harassment suits are costly whether they are won or lost.

The masculine gender is used in this policy only for grammatical clarity and convenience. (Ord. #96-74, July 1996)

4-402. 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.

Unwelcome advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's performance; or

(2) Submission or rejection of such contact is used as a basis for employment decisions affecting an individual; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment is unwelcome conduct in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises in return for submission to sexual favors; making inappropriate sex oriented comments on appearance, including dress or physical features; telling embarrassing sex oriented stories; displaying sexually explicit or pornographic material, no matter how it is displayed; or sexual assaults on the job by supervisors, employees, or on occasion, non-employees when any of such of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracting, or unreasonably interferes with work performance.

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

This policy will be distributed to all officials and employees of the city. Every official and employee will be required to acknowledge his or her receipt of this policy in writing. A copy of that acknowledgement shall be kept on permanent file in the city. Department heads and supervisors shall also be responsible for insuring that all employees under their direction are familiar with this policy.

All officials and employees of the city are entitled to a work environment free of such forms of harassment. The grant or refusal of employment, of advancement opportunities, pay increases or other conditions of employment based upon consent or refusal of sexual behavior is beyond the scope and authority of any official or employee of the City of Dyer. Personnel actions determined to be based upon such criteria will be reviewed with appropriate remedial and disciplinary action, up to and including the discharge of the involved official or employee. (Ord. #96-74, July 1996)

4-403. Sexual harassment complaints. The city may be held liable for the actions of all employees with regards to sexual harassment and therefore, will not tolerate the sexual harassment of its employees. The city will take immediate, positive steps to stop it when it occurs.

By law the city is responsible for acts of sexual harassment in the work place where the city (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the city took immediate

and appropriate corrective action. The city may also be responsible for the acts of non-employees, with respect to the sexual harassment of employees in the work place, where the city (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

Prevention is the best rule for the elimination of sexual harassment. Therefore, the following rules shall be strictly enforced:

(1) An employee who feels he or she is being subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

- (a) The employee's immediate supervisor;
- (b) The employees's department head;
- (c) The city recorder; or
- (d) The mayor.

(2) Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of sexual harassment. Regardless of to which of the above persons the employee makes a complaint of sexual harassment, the employee should be prepared to provide the following information:

- (a) Officials or employees name, department and position title;
- (b) The name of the person or persons committing the sexual harassment, including their title(s), if known.
- (c) The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.....) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;
- (d) Witness to the harassment;
- (e) Whether the employee has previously reported such harassment, and, if so, when and to whom. (Ord. #96-74, July 1996)

4-404. Reporting and investigation of sexual harassment complaints. The recorder is the person designated by the city to be the investigator of complaints of sexual harassment against employees. In the event the sexual harassment complaint is against the recorder, the investigator shall be a municipal employee appointed by the mayor.

When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the recorder, or in the event the sexual harassment complaint is against the recorder, to the mayor.

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed during the

investigation, the person against whom the complaint of sexual harassment was made, and any other person contacted by the investigator in connection with the investigation. The note shall be made at the time the verbal interview is in progress.

When the investigator receives a complaint of sexual harassment, he or she shall immediately:

(a) Obtain a written statement from the person complaining of sexual harassment which includes a comprehensive report of the nature of the sexual harassment complained of, and the times, dates, and places where the sexual harassment occurred. The investigator shall verbally question the person complaining of sexual harassment about any information in the written statement which is not clear or needs amplification.

(b) Obtain written statements from witnesses which include a comprehensive report of the nature of the conduct witnessed, and the times, dates, and places where the conduct occurred, and the conduct of the person complaining of sexual harassment toward the person against whom the complaint of sexual harassment was made. The investigator shall verbally question witnesses about any information in their written statements which is not clear or needs amplification.

(c) Obtain a written statement from the person against whom the complaint of sexual harassment has been made. The investigator shall verbally question the person against whom the complaint of sexual harassment has been made about any information in the written statement which is not clear or needs amplification.

(d) Prepare a report of the investigation, which includes the written statement of the person complaining of sexual harassment, the written statements of witnesses, the written statement of the person against whom the complaint of sexual harassment was made, and all the investigators' notes connected to the investigation, and submit the report to the mayor.

Complaints of sexual harassment against elected officials shall be investigated by a city employee appointed by the city council.

The investigator shall investigate the complaint against an elected official in the same manner as is outlined in this policy for the investigation of complaints against employees. However, upon the completion of the investigation, the investigator shall submit the report of the investigation to the city council. (Ord. #96-74, July 1996)

4-405. Action of complaints of sexual harassment. Upon receipt of report of the investigation of a complaint of sexual harassment against an employee, the mayor shall immediately review the report. If the mayor determines that the report is not complete in some respect, he may question the person complaining of sexual harassment, the person against whom this

complaint of sexual harassment has been made, witnesses to the conduct in question or any other person who may have knowledge about the conduct in question. The mayor shall also keep written records of his investigation in the same matter prescribed for the investigator. However, if the mayor feels the investigation report is adequate he may make a determination of whether sexual harassment occurred, based on the report.

Based upon the report, and his own investigation, where one is made, the mayor shall, within a reasonable time, determine whether the conduct of the person against whom a complaint of sexual harassment has been made constitutes sexual harassment. In making that determination, the mayor shall look at the record as a whole and at the totality of the circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining of sexual harassment. The determination of whether sexual harassment occurred will be made on a case by case basis.

If the mayor determines that the complaint of sexual harassment is founded, he shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment, consistent with his authority under the municipal charter, ordinances, or rules governing his authority to discipline employees. If the mayor feels that disciplinary action stronger than he is authorized to impose by the charter, ordinances, resolutions or rules governing employee discipline is warranted, he shall make that determination known to the city council together with the report of the investigation. If the city council determines that the complaint of sexual harassment was founded, it may discipline the employee consistent with its authority under the municipal charter, ordinances, resolutions or rules governing employee discipline.

The disciplinary action shall be consistent with the nature and severity of the offense, the rank of the employee, and any other factors the city council believe relate to fair and efficient administration of the city, including, but not limited to, the effect of the offense on employee morale and public perception of the offense, and the light in which it cast the city. The disciplinary action may include demotion, suspension, dismissal, warning or reprimand. A determination of the level of disciplinary action shall also be made on a case by case basis.

A written record of disciplinary action taken shall be kept, including verbal reprimands.

In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint of sexual harassment, witnesses or any other person connected with the investigation of the complaint of sexual harassment.

In cases where the sexual harassment is committed by a non-employee against a city employee in the work place, the mayor shall take whatever lawful action against the non-employee is necessary to bring the sexual harassment to an immediate end.

The city council may discipline an elected official in whatever manner it deems appropriate, consistent with its authority under state law, the municipal charter, ordinances, resolutions or other rules governing discipline of elected officials. (Ord. #96-74, July 1996)

4-406. Obligation of employees. Employees are not only encouraged to report instances of sexual harassment, they are obligated to report instances of sexual harassment. Sexual harassment exposes the city to liability, and a part of each employee's job is to reduce the city's exposure to liability.

Employees are obligated to cooperate in every investigation of sexual harassment. The obligation includes, but is not necessarily limited to, coming forward with evidence, both favorable and unfavorable, to a person accused of sexual harassment, fully and truthfully making a written report or verbally answering questions when required to do so by an investigator during the course of an investigation of sexual harassment.

Employees are also obligated to refrain from making bad faith accusations of sexual harassment.

Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith. (Ord. #96-74, July 1996)

4-407. Open records. The Tennessee Open Records Law at Tennessee Code Annotated §§ 10-7-503 through 10-7-506 probably applies to the records in sexual harassment cases, as it does to virtually all other municipal records. In other words, complaints and reports of sexual harassment, including the investigative report probably cannot be kept confidential, perhaps not even during the investigation. However, the value of written records in sexual harassment cases, as in most other cases where an investigation occurs from which disciplinary action against an employee might arise, requires that a written record of the investigation be kept to help insure justice and efficient municipal administration. (Ord. #96-74, July 1996)

CHAPTER 5

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-501. Purpose.
- 4-502. Enforcement.
- 4-503. Travel policy.
- 4-504. Miscellaneous expenses.
- 4-505. Travel reconciliation.

4-501. Purpose. The purpose of this chapter and referenced regulations is to bring the city into compliance with Public Acts 1993, Chapter 433. This act requires Tennessee municipalities to adopt travel and expense regulations governing expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee in the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees and volunteers. It's the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (as added by Ord. #98-98, Nov. 1998)

4-502. Enforcement. The mayor of the city or his or her designee shall be responsible for the enforcement of travel regulations. (as added by Ord. #98-98, Nov. 1998)

4-503. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" 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, the employees of such boards and committees, and volunteers 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. Reimbursement expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; parking fees; and other actual and necessary expenses related to official business as determined by the mayor. 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 mayor 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 mayor may make exceptions for unusual circumstances.

(7) The hotel/motel reimbursement rate shall be actual lodging cost not to exceed \$65.00 per day. Even if it costs more, travelers are allowed to stay at the officially designated hotel of the meeting at the conference-lodging rate. It will be the traveler's responsibility to provide documentation of the "officially designated meeting site" room rates, if these rates are higher than the normal reimbursable amounts.

(8) Receipts aren't required for meals. The authorized traveler may be reimbursed the daily amount based on the rate schedule and the authorized length of stay. The per diem meal amounts are expected to cover meals, tips, and incidental expenses. Whether meals may be claimed depends on when the traveler leaves and returns to the official station. The traveler's official station is home or work, whichever produces the least cost to the city. When partial day travel is involved, the current per diem allowance is determined as follows:

MEAL	PER DIEM	DEPARTURE OR RETURN	
		BEFORE	AFTER
Breakfast	\$ 8.00	0700	0800
Lunch	\$10.00	1100	1330
Dinner	\$12.00	1700	1830

(9) Employees should use city vehicles when possible. Use of a private vehicle must be approved in advance by the mayor. The city will pay the mileage rate allowable by Internal Revenue Code Section 162. The miles for reimbursement shall be paid from origin to destination and back by the most

direct route. Necessary vicinity travel related to official city business will be reimbursed.

If two or more travelers on the same trip use a privately owned automobile, only the traveler who owns or has custody of the automobile will be reimbursed for mileage. It's the responsibility of the traveler to provide adequate insurance to hold harmless the city for any liability from the use of the private vehicle.

Reasonable tolls will be allowed when the most direct travel route requires them. (as added by Ord. #98-98, Nov. 1998)

4-504. Miscellaneous expenses. (1) Registration fees for approved conferences, conventions, seminars, meetings, and other educational programs will be allowed. Registration fees should be specified on the original travel authorization form and can include a request for pre-registration fee payment.

(2) A \$5.00 allowance will be reimbursable for hotel/motel check-in and baggage handling expenses.

(3) Parking fees and other actual and necessary expenses related to official business are reimbursable.

(4) Laundry, valet service, tips, and gratuities are considered personal expenses and aren't reimbursable. (as added by Ord. #98-98, Nov. 1998)

4-505. Travel reconciliation. (1) Within 10 days of return from travel the traveler is expected to complete and file the expense reimbursement form. The traveler must certify that the amount due is true and accurate. Original lodging, travel, taxi, parking, and other receipts must be attached.

If the city provided a travel advance or made advance payment, the traveler should include that information on the expense form. In the case of advances, the form should have a reconciliation summary, reflecting total claimed expenses with advances and city pre-payments indicated. The balance due the traveler or the refund due the city should be clearly shown - below the total claim on the form or in a cover memo attached to the front of the form.

(2) If the traveler received a travel advance and spent less than the advance, the traveler should attach a check made payable to the city for that difference.

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

(4) 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. (as added by Ord. #98-98, Nov. 1998)