

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

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CHAPTER 1

SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

SECTION

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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 of La Vergne 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. (1994 Code, § 4-101)

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. (1994 Code, § 4-102)

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. (1994 Code, § 4-103)

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. (1994 Code, § 4-104)

4-105. Records to be kept and reports made. The human resource director shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1994 Code, § 4-105, modified)

CHAPTER 2

PERSONNEL SYSTEM

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 La Vergne that is based on merit and fitness. The system shall provide a means to select, develop, and maintain an effective municipal work force through the impartial application of sound management and personnel principals free of personal and political considerations and without regard of race, sex, age, creed, national origin or disability. (1994 Code, § 4-201)

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 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) Members of appointed boards and commissions;
- (2) Consultants, advisers, and legal counsel rendering temporary professional service;
- (3) Independent contractors;
- (4) Persons employed by the municipality for not more than three (3) months during a fiscal year;
- (5) Part-time employees paid by the hour or by the day, and not considered regular;
- (6) Volunteer personnel appointed without compensation;

All positions of the municipal government not expressly exempted from coverage by this section shall be subject to the provisions of the city charter. (1994 Code, § 4-202)

4-203. Administration. The personnel system shall be administered by the mayor, who shall have the following duties and responsibilities:

- (1) Exercise leadership in developing an effective personnel administration system subject to provisions in this chapter, other ordinances, the city charter, and federal and state laws relating to personnel administration.

(2) Establish policies and procedures for the recruitment, appointment, and discipline of all employees of the municipality subject to those policies as set forth in the city charter, municipal code, and the personnel rules and regulations.

(3) Fix and establish the number of employees in the various municipal government departments and offices and determine the duties, authority, responsibility, and compensation in accordance with the policies as set forth in the city charter and code, and subject to the approval of the city board of mayor and aldermen and budget limitations.

(4) Foster and develop programs for the improvement of employee effectiveness, including training, safety, and health.

(5) Maintain records of all employees subject to the provisions of this chapter of the code which shall include each employee's class, title, pay rates, and other relevant data.

(6) Make periodic reports to the board of mayor and aldermen regarding the administration of the personnel system.

(7) Prepare and recommend to the board of mayor and aldermen a pay plan for all municipal government employees.

(8) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the employment needs of the municipal government.

(9) Certify payrolls.

(10) Perform such other duties and exercise such other authority in personnel administration as may be prescribed by law and the board of mayor and aldermen. (1994 Code, § 4-203, modified)

4-204. Personnel rules and regulations. The mayor or his designee shall develop rules and regulations, necessary for the effective administration of the personnel system. Amendments to the personnel rules and regulations shall be by resolution to the board of mayor and aldermen. (1994 Code, § 4-204, modified)

4-205. Records. The mayor or his designee shall maintain adequate records of the employment record of every employee as specified herein. (1994 Code, § 4-205, modified)

4-206. Right to contract for special services. The city board of mayor and alderman may direct the city administrator to contract with any competent agency for the performance of such technical services in connection with the operation of the personnel system as may be deemed necessary. (1994 Code, § 4-206)

4-207. Discrimination. No person in the classified service or seeking admission thereto, shall be employed, promoted, demoted, or discharged, or in

any way favored or discriminated against because of political opinions or affiliations, or because of race, color, creed, national origin, sex, ancestry, age, or religious belief. (1994 Code, § 4-207)

4-208. Amendments. Amendments or revisions of these rules may be recommended for adoption by the mayor or his designee. Such amendments or revisions of these rules shall be by resolution and shall become effective after approval by the board of mayor and aldermen. (1994 Code, § 4-208, modified)

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-301. Title.

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4-303. Coverage.

4-304. Standards authorized.

4-305. Variances from standards authorized.

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4-301. Title. This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of La Vergne. (1994 Code, § 4-301, as replaced by Ord. #2013-20, Dec. 2013)

4-302. Purpose. The City of La Vergne, in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees, and shall:

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

(a) Top management commitment and employee involvement;

(b) Continually analyze the worksite to identify all hazards and potential hazards;

(c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and

(d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

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

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

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (1994 Code, § 4-302, as replaced by Ord. #2013-20, Dec. 2013)

4-303. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of La Vergne shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1994 Code, § 4-303, as replaced by Ord. #2013-20, Dec. 2013)

4-304. Standards authorized. The occupational safety and health standards adopted by the City of La Vergne are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972. (T.C.A., title 50, chapter 3) (1994 Code, § 4-304, as replaced by Ord. #2013-20, Dec. 2013)

4-305. Variances from standards authorized. The City of La Vergne may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of La Vergne will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (1994 Code, § 4-305, as replaced by Ord. #2013-20, Dec. 2013)

4-306. Administration. For the purpose of this chapter, the city administrator or his designee is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer the program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions for the Public Sector, chapter 0800-01-05,

as authorized by Tennessee Code Annotated, title 50. (1994 Code, § 4-306, as replaced by Ord. #2013-20, Dec. 2013)

4-307. Funding the program. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of La Vergne. (1994 Code, § 4-307, as replaced by Ord. #2013-20, Dec. 2013)

CHAPTER 4**INFECTIOUS DISEASE CONTROL POLICY****SECTION**

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4-401. Purpose. It is the responsibility of the City of La Vergne 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 La Vergne, 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). (1994 Code, § 4-401)

4-402. 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 materials from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Paramedics and emergency medical technicians;
- (2) Occupational nurses;
- (3) Housekeeping and laundry workers;

- (4) Police and security personnel;
- (5) Firefighters;
- (6) Sanitation and landfill workers; and
- (7) Any other employee deemed to be at high risk per this policy and an exposure determination. (1994 Code, § 4-402)

4-403. 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 to the board of mayor and aldermen 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 prescribed by the board of mayor and aldermen. (1994 Code, § 4-403)

4-404. Definitions. (1) "Body fluid" - 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. (1994 Code, § 4-404)

4-405. 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. (1994 Code, § 4-405)

4-406. 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 to 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" dumpster. 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 transported 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 immediately after contact with potentially infectious materials.

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (1994 Code, § 4-406)

4-407. Hepatitis B vaccinations. The City of La Vergne 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. (1994 Code, § 4-407)

4-408. 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. (1994 Code, § 4-408)

4-409. 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. (1994 Code, § 4-409)

4-410. 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. (1994 Code, § 4-410)

4-411. 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. (1994 Code, § 4-411)

4-412. 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. (1994 Code, § 4-412)

4-413. 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. (1994 Code, § 4-413)

4-414. 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. (1994 Code, § 4-414)

4-415. 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. (1994 Code, § 4-415)

4-416. 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 circumstance, 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. (1994 Code, § 4-416)

CHAPTER 5

DEFENSE AND INDEMNIFICATION OF CITY OFFICIALS AND EMPLOYEES

SECTION

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4-501. Definitions. For the purpose of this chapter, the following words shall have the following meanings unless the context indicates otherwise:

(1) "Claim" means a claim, civil action or proceeding filed against such official or employee, in his or her official or individual capacity or both, on account of an act or omission arising out of the scope of his or her employment as an official or employee of the city.

(2) "Employee" means any person who is or has been employed in the service of the city.

(3) "Official" means any person who is serving or has been served as an elected or appointed city officer and any person who is serving or has served as an appointed member of any city board, commission, agency or committee. (1994 Code, § 4-601)

4-502. Legal representation. Subject to the conditions and requirements of this chapter, the city shall, upon request of any present or former official or employee, provide to the official or employee such legal representation as may be reasonably necessary to defend any claim filed against the official or employee, arising out of the performance, purported performance or failure of performance, in good faith, of duties for or employment with the city. This legal representation shall be provided by the city attorney or the city attorney's designee, except as may be provided under an insurance policy or self insurance or joint insurance program. (1994 Code, § 4-602)

4-503. Exclusions - determination of representation. This chapter shall not apply to any dishonest, fraudulent, willful misconduct, criminal or malicious act of the person requesting defense and indemnification, to any act outside the scope of service or employment, to any lawsuit brought by or on behalf of the city, to any matter which would create a conflict of interest

between the city and the person or persons involved, or to any accident, occurrence or circumstance in which the city or an official or employee is insured against loss or damages under the terms of a city insurance policy or self insurance or a joint insurance program.

The city attorney or his designee shall determine whether an official or employee was performing duties for or employment with the city in good faith, and whether an official or employee committed a dishonest, fraudulent, criminal or malicious act. The official or employee may appeal such determination to the mayor and board of aldermen. (1994 Code, § 4-603)

4-504. Payment of claims - conditions of representation. At the request of an official or employee, the city attorney or his designee shall investigate and defend a claim which is covered by this chapter. If that claim is deemed by the city attorney or his designee to be a proper claim against the official or employee, the claim shall be paid by the city as long as the following requirements are met.

(1) As soon as practicable after receipt of notice of a claim, the official or employee shall give the city attorney written notice of the claim, specifying the names of the officials or employees involved, the date, time, place and circumstances surrounding the incident or conduct giving rise to the claim, the names and addresses of all persons allegedly injured, the names and addresses of owners of allegedly damaged property, and the names and addresses of all witnesses.

(2) The official or employee shall cooperate with the city attorney or his designee and, upon request, shall assist in making settlements of any lawsuits and in enforcing any claim for subrogation against any persons or organizations that may be liable to the city because of any damages or losses arising from the incident or conduct.

(3) The official or employee shall attend interviews, depositions, hearings and trials as requested, and assist in securing and giving evidence and obtaining the attendance of witnesses.

If the city attorney or his designee determines that a claim against an official or employee is not covered by this chapter and a court of competent jurisdiction, in a final judgment, finds that the claim is covered by this chapter, the city shall pay the claim and reasonable attorney's fees. (1994 Code, § 4-604)

4-505. Refusal to cooperate. If any official or employee fails or refuses to meet the requirements of section 4-604 herein or elects to provide his or her own representation on any claim, this chapter shall be inapplicable and of no force and effect with respect to that claim. (1994 Code, § 4-605)

4-506. Conflict with provisions of insurance policies. Nothing contained in this chapter shall be construed to modify or amend any provision of any insurance policy or any coverage through a self insurance or joint

insurance program. If there is a conflict between this chapter and the provisions of any such policies or coverage, the provisions of any such policies or coverage shall control. (1994 Code, § 4-606)

4-507. Pending claims. This chapter shall apply to any pending claim against an official or employee and to any claim hereafter filed irrespective of the date of the events or circumstances giving rise to the claim. (1994 Code, § 4-607)

4-508. Other indemnification. In any other action or proceeding, including proceeding which took place before the passage of this chapter,¹ the city may provide for the defense or pay the defense costs of a present or former city official, if the city attorney determines that such representation or defense costs were incurred while the official or employee was performing, purporting to perform or failing to perform, in good faith, duties for or employment with the city and such actions or failure to act did not fall under the exclusions of section 4-603 of this chapter. Such past costs may be paid only on presentation of canceled checks drawn on the account of the official. (1994 Code, § 4-608)

4-509. Indemnification for criminal charges. (1) In the event that a criminal charge or charges are brought against an employee or official on account of an act or omission arising out of the scope of his or her employment as an official or employee of the city; and, provided that the alleged criminal conduct does not constitute a violation of the ordinances of the city and provided that said criminal charges are not brought by or on behalf of the city, the city may, upon request of any present or former official or employee, provide to the official or employee such legal representation as may be reasonably necessary to defend the charge or charges filed against the official or employee, arising out of the performance, purported performance or failure of performance, in good faith, of duties for or employment with the city.

(2) Requests made pursuant to this section shall be presented to the board of mayor and aldermen which shall determine, by majority vote, whether to grant or deny said request. (Ord. #2008-02, March 2008)

¹These provisions were taken from Ordinance #96-16 which passed final reading September 5, 1996.

CHAPTER 6

CODE OF ETHICS

SECTION

- 4-601. Applicability.
- 4-602. Definition of "personal interest."
- 4-603. Disclosure of personal interest by official with vote.
- 4-604. Disclosure of personal interest in nonvoting matters.
- 4-605. Acceptance of gratuities, etc.
- 4-606. Use of information.
- 4-607. Use of municipal time, facilities, etc.
- 4-608. Use of position or authority.
- 4-609. Outside employment.
- 4-610. Ethics complaints.
- 4-611. Violations.
- 4-612. Filing of complaints.

4-601. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (Ord. #2007-13, June 2007)

4-602. Definition of "personal interest." (1) For purposes of §§ 4-603 and 4-604, "personal interest" means:

(a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or

(b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step-parent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

(2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #2007-13, June 2007)

4-603. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (Ord. #2007-13, June 2007)

4-604. Disclosure of personal interest in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #2007-13, June 2007)

4-605. Acceptance of gratuities, etc. (1) An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

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

(b) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business.

(2) It is presumed that any gift or gratuity accepted by an official or employee equal to, or less than, fifty dollars (\$50.00) shall not constitute a violation of this code. (Ord. #2007-13, June 2007)

4-606. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #2007-13, June 2007)

4-607. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage

to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (Ord. #2007-13, June 2007)

4-608. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (Ord. #2007-13, June 2007)

4-609. Outside employment. With the exception of the city judge, city attorney, and any other part time employee or official, an official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (Ord. #2007-13, June 2007)

4-610. Ethics complaints. (1) The board of mayor and aldermen shall appoint an ethics officer who shall serve at the pleasure of the board of mayor and aldermen and be compensated for services rendered as the ethics officer. Upon the written request of an official or employee potentially affected by a provision of this chapter, the ethics officer may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics.

(5) In the event that the ethics officer finds a complaint to be frivolous, or in bad faith, the individual or individuals that filed the complaint shall be subject to a civil penalty equal to the cost associated with the investigation of

the frivolous complaint, including any fee charged by the ethics officer for investigation of the complaint.

(6) The board of mayor and aldermen may authorize the city attorney to file a cause of action against the individual or individuals responsible for the frivolous complaint for enforcement and collection of the civil penalty. (Ord. #2007-13, June 2007)

4-611. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #2007-13, June 2007)

4-612. Filing of complaints. Any complaint brought pursuant to this ordinance shall be filed with the city recorder's office and shall identify the person or persons making said complaint, their address and telephone number, and the facts upon which this complaint is made. The board of mayor and alderman may, by resolution, set a fee to be charged for the filing of said complaint. In the event that the subject of a complaint is found to have violated this ordinance, the person that filed the complaint shall be entitled to a refund of the filing fee referenced herein.

The ethics officer shall investigate any complaint he or she deems credible. As part of his or her investigation, the ethics officer shall further make a written finding if any complaint is found to be frivolous or in bad faith. In the event that the ethics officer finds that a complaint on its face to lack credibility or if, in the opinion of the ethics officer, the allegation(s) set forth in the complaint do not constitute a violation of this ordinance, said complaint shall be dismissed. (Ord. #2007-13, June 2007)