

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

1. SOCIAL SECURITY.
2. PERSONNEL POLICY.
3. MISCELLANEOUS REGULATIONS -- CITY PERSONNEL.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
5. INFECTIOUS DISEASE CONTROL POLICY.
6. TRAVEL REIMBURSEMENT REGULATIONS.
7. DRUG AND ALCOHOL TESTING POLICY.

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

- 4-101. Policy declared.
- 4-102. Agreements authorized.
- 4-103. Withholdings.
- 4-104. Employer's contributions.
- 4-105. Records, reports.
- 4-106. Employees excluded.
- 4-107. Coverage for housing authority employees.

4-101. Policy declared. It is hereby declared to be the policy and purpose of municipality to extend, at the earliest date, to employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the municipality shall take such action as may be required by applicable state and federal laws or regulations. (1978 Code, § 1-601)

4-102. Agreements authorized. 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. (1978 Code, § 1-602)

4-103. Withholdings. 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. (1978 Code, § 1-603)

4-104. 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. (1978 Code, § 1-604)

4-105. Records, reports. The municipality shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1978 Code, § 1-605)

4-106. Employees excluded. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the municipality.

There is hereby excluded from this chapter any authority to make any agreement with respect to employees rendering services in fee basis positions, or any elective legislative, executive or judicial official or any regulations. Acting under § 4-101 hereinabove contained, the mayor is hereby directed to amend the social security agreement with the state so as to extend the benefits of the system of federal old age and survivors' insurance to include employees rendering services in fee basis positions and elective legislative, executive and judicial officials as of January 1, 1956. (1978 Code, § 1-606)

4-107. Coverage for housing authority employees. The housing authority is hereby authorized and instructed to withhold from salary and wage payments of its employees and to contribute on their behalf funds for application on federal old age and survivors' insurance accounts for such employees. Said authority shall report on and make such payments or contributions directly to the appropriate state agency. (1978 Code, § 1-607)

CHAPTER 2

PERSONNEL POLICY¹

SECTION

- 4-201. Municipal personnel manual established.
- 4-202. Personnel manual revisions.
- 4-203.--4-282. Deleted.

4-201. Municipal personnel manual established. The City of Sparta personnel manual,² also known as human resource rules and regulations, shall be approved by resolution of the board of mayor and aldermen. (1978 Code, § 1-801 as replaced by Ord. #17-906, Sept. 2017 *Ch13_10-18-18*)

4-202. Personnel manual revisions. The city administrator shall present amendments and other revisions to the personnel manual to the board of mayor and aldermen for approval by resolution. (1978 Code, § 1-802, as replaced by Ord. #17-906, Sept. 2017 *Ch13_10-18-18*)

4-203.--4-234. Deleted. (as deleted by Ord. #17-906, Sept. 2017 *Ch13_10-18-18*)

¹For personnel policy specifically concerning the police department, see title 6 of this code.

²The personnel manual for the City of Sparta, and any amendments thereto, may be found in the recorder's office.

CHAPTER 3

MISCELLANEOUS REGULATIONS -- CITY PERSONNEL

SECTION

4-301. Business dealings.

4-302. [Repealed.]

4-303. [Repealed.]

4-304. Political activity.

4-305. [Repealed.]

4-306. [Repealed.]

4-307. Strikes and unions.

4-301. Business dealings. Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the municipality. (1978 Code, § 1-1001)

4-302. [Repealed.] (1978 Code, § 1-1002, as repealed by Ord. #06-816, Oct. 2006)

4-303. [Repealed.] (1978 Code, § 1-1003, as repealed by Ord. #06-816, Oct. 2006)

4-304. Political activity. Municipal officers and employees shall enjoy the same rights as other citizens of Tennessee to be a candidate for any state or local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities; provided the city is not required to pay the employee's salary for work not performed for the city. Municipal employees shall not be qualified to run for elected office in the board of mayor and aldermen. The restriction against running for office in the city council shall not apply to elective officials or to off-duty law enforcement officers acting as private citizens. (1978 Code § 1-1004, modified)

4-305. [Repealed.] (1978 Code, § 1-1005, as repealed by Ord. #06-816, Oct. 2006)

4-306. [Repealed.] (1978 Code, § 1-1006, as repealed by Ord. #06-816, Oct. 2006)

4-307. Strikes and unions. No municipal officer or employee shall participate in any strike against the municipality. (1978 Code, § 1-1007, modified)

CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

- 4-401. Creation.
- 4-402. Purpose.
- 4-403. Coverage.
- 4-404. Standard authorized.
- 4-405. Variances.
- 4-406. Administration.
- 4-407. Funding the program.

4-401. Creation. This chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Sparta. (1978 Code, § 1-901, as replaced by Ord. #03-769, Aug. 2003, and Ord. #16-899, Sept. 2016 *Ch13_10-18-18*)

4-402. Purpose. The City of Sparta in electing to update established program plan and 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.

¹The Plan of Operation for the Occupational Safety and Health Program Plan for the City of Sparta may be found in its entirety in the recorder's office.

(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. (1978 Code, § 1-902, as replaced by Ord. #03-769, Aug. 2003 and Ord. #16-899, Sept. 2016 *Ch13_10-18-18*)

4-403. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Sparta shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1978 Code, § 1-903, as replaced by Ord. #03-769, Aug. 2003 and Ord. #16-899, Sept. 2016 *Ch13_10-18-18*)

4-404. Standard authorized. The occupational safety and health standards adopted by the City of Sparta 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 (Tennessee Code Annotated, title 50, chapter 3). (as added by Ord. #03-769, Aug. 2003 and replaced by Ord. #16-899, Sept. 2016 *Ch13_10-18-18*)

4-405. Variances. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, the City of Sparta may 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 administrator 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. (as added by Ord. #03-769, Aug. 2003 and replaced by Ord. #16-899, Sept. 2016 *Ch13_10-18-18*)

4-406. Administration. For the purposes of this chapter, the city administrator for the City of Sparta is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this 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. (as added by Ord. #03-769, Aug. 2003 and replaced by Ord. #16-899, Sept. 2016 ***Ch13_10-18-18***)

4-407. Funding the program. Sufficient funds for administering and staffing the program plan pursuant to this ordinance shall be made available as authorized by the Sparta Board of Mayor and Aldermen. (as added by Ord. #03-769, Aug. 2003 and replaced by Ord. #16-899, Sept. 2016 ***Ch13_10-18-18***)

CHAPTER 5

INFECTIOUS DISEASE CONTROL POLICY

SECTION

- 4-501. Purpose.
- 4-502. Coverage.
- 4-503. Administration.
- 4-504. Definitions.
- 4-505. Policy statement.
- 4-506. General guidelines.
- 4-507. Hepatitis B vaccinations.
- 4-508. Reporting potential exposure.
- 4-509. Hepatitis B virus post-exposure management.
- 4-510. Human immunodeficiency virus post-exposure management.
- 4-511. Disability benefits.
- 4-512. Training regular employees.
- 4-513. Training high risk employees.
- 4-514. Training new employees.
- 4-515. Records and reports.
- 4-516. Legal rights of victims of communicable diseases.
- 4-517. Amendments and repeals.

4-501. Purpose. It is the responsibility of the City of Sparta 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 Sparta, 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). (1978 Code, § 1-904(1))

4-502. 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) Police personnel;
- (2) Firefighters;

- (3) Sanitation workers; and
- (4) Any other employee deemed to at high risk per this policy and an exposure determination. (1978 Code, § 1-904(2))

4-503. Administration. This infection control policy shall be administered by the city administrator and utilities manager for their respective departments or a representative so designated who shall have the following duties and responsibility:

- (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 the 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 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. (1978 Code, § 1-904(3))

4-504. 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 body fluids to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individuals normal job duties.

(3) "Hepatitis B Virus (HBV)" - a serious blood-borne virus with potentially 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 body fluids to be protected as though such body fluid were HBV or HIV infected. (1978 Code, § 1-904(4))

4-505. Policy statement. All blood and other potentially infectious materials are potentially 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. (1978 Code, § 1-905(1))

4-506. 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.

(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. Employee 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" dumpster. **NOTE:** Sharp objects must be placed in an impervious container and then taken to a hospital for disposal.

(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) Fabrics soiled with blood or potentially infectious materials shall be handled as little as possible. 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.

(14) The employee handling contaminated materials 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.

(15) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (1978 Code, § 1-905(2))

4-507. Hepatitis B vaccinations. The City of Sparta shall offer the appropriate hepatitis B vaccination to employees at risk of exposure free of charge and in amounts 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 city administrator/utilities manager. (1978 Code, § 1-906(1))

4-508. 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 city administrator/utilities manager 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. (1978 Code, § 1-906(2))

4-509. 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. (1978 Code, § 1-906(3))

4-510. 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. (1978 Code, § 1-906(4))

4-511. 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. (1978 Code, § 1-906(5))

4-512. 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 material. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (1978 Code, § 1-907(1))

4-513. 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 as per this policy. (1978 Code, § 1-907(2))

4-514. 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. (1978 Code, § 1-907(3))

4-515. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the city administrator/utilities manager. Statistics shall be maintain 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. gama 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 town 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. (1978 Code, § 1-908)

4-516. 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 officers 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. (1978 Code, § 1-909)

4-517. Amendments and repeals. (1) Amendments. Amendments or revisions of these rules may be recommended for adoption by any elected official, the city administrator or utilities manager, or by department heads. Such amendments or revisions of these rules shall be by ordinance and shall become effective after approval by the board of mayor and aldermen.

(2) Repeal. If any provision of these sections, or if any policy or order thereunder, or the application of any provision to any person or circumstances is held invalid, the remainder of the sections and the application of the provision of this section or of the policy or order to persons or circumstances other than those to which it is held invalid shall not be affected thereby. (1978 Code, § 1-910)

CHAPTER 6

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-601. Purpose.
- 4-602. Definitions.
- 4-603. Enforcement.
- 4-604. General travel policy.
- 4-605. Travel reimbursement rates.
- 4-606. Administrative procedures.

4-601. Purpose. The purpose of this section is to bring the city into compliance with Pub. Acts 1993, ch. 433 of the Tennessee General Assembly. This act requires Tennessee municipalities to adopt regulations covering travel and other expenses associated with travel that are incurred by "any mayor and any member of the local governing body and board or committee member elected or approved by the mayor, local governing body, and any official or employee of the municipality whose salary is set by charter or general law".

In order to provide consistency in travel regulations and reimbursement, this section is expanded to cover regular city employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (1978 Code, § 1-1008(1))

4-602. Definitions. Chief Administrative officer(s) (CAO). The City Administrator and/or Utilities Manager of the City of Sparta. (1978 Code, § 1-1008(2))

4-603. Enforcement. The chief administrative officer(s) (CAO) of the city or his/her designee shall be responsible for the enforcement of these travel regulations. (1978 Code, § 1-1008(3))

4-604. General travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" shall mean any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter.

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

CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses. Travel advance requests are not considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

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

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

(b) Actual, reasonable, and necessary under the circumstances.

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

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

(6) 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. (1978 Code, § 1-1008(4))

4-605. Travel reimbursement rates. (1) Use of private vehicles. Authorized travelers shall be reimbursed at the current federal rate as authorized by IRS regulations for automobile mileage. The city's reimbursement rates for use of a personal automobile will automatically change when the federal rates are adjusted.

(2) Meals, lodging, conference registration fees, conventions, seminars, and other education programs. The municipality may reimburse the traveler or pay directly to the provider for reasonable and customary expenses for meals, lodging, registration fees for conferences, conventions, seminars, and other education programs. (1978 Code, § 1-1008(5))

4-606. Administrative procedures. The CAO is authorized to develop administrative policies and procedures as necessary to provide for the implementation and utilization of this section. (1978 Code, § 1-1008(6))

CHAPTER 7

DRUG AND ALCOHOL TESTING POLICY

SECTION

- 4-701. Purpose of the policy.
- 4-702. Scope.
- 4-703. Consent form.
- 4-704. Compliance with substance abuse policy.
- 4-705. General rules.
- 4-706. Drug testing.
- 4-707. Alcohol testing.
- 4-708. Education and training.
- 4-709. Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result.
- 4-710. Voluntary disclosure of drug and/or alcohol use.
- 4-711. Exceptions.
- 4-712. Modification of policy.
- 4-713. Definitions.

4-701. Purpose of the policy. The City of Sparta, Tennessee recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the City of Sparta, Tennessee to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the City of Sparta, Tennessee are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the City of Sparta, Tennessee has adopted this drug and alcohol testing policy. This policy complies with the Drug Free Workplace Act of 1988, which ensures employees the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are:

- pre-employment after a conditional offer of employment has been made prior to the final offer of employment,
- transfer,
- reasonable suspicion,
- post-accident (post-incident),
- random,
- return-to-duty,
- follow-up.

It is the policy of the City of Sparta, Tennessee that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol is prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

- (1) Being on duty or performing work in or on city property while under the influence of drugs and/or alcohol;
- (2) Engaging in the manufacture, sale, distribution, use, or unauthorized possession of (illegal) drugs at any time and of alcohol while on duty or while in or on city property;
- (3) Refusing, or failing a drug and/or alcohol test administered under this policy;
- (4) Providing an adulterated, altered, or substituted specimen for testing;
- (5) Use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
- (6) Use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

For employees in safety sensitive positions that could result in harm to himself or herself or others, it is the employee's responsibility to inform the proper supervisory personnel of his/her use of such legally prescribed medication before the employee goes on duty or performs any work.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the city shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse, the effects of drug and/or alcohol abuse on an individual's health, work, and personal life, the city's/town's policy regarding drugs and/or alcohol, and the availability of counseling. The city administrator and utilities manager have been designated as the municipal officials responsible for answering questions regarding this policy and its implementation.

All City of Sparta, Tennessee property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property.

Property includes, but is not limited to, vehicles, desks, containers, files, and lockers. (Ord. #95-684, Jan. 1996, modified)

4-702. Scope. Certain aspects of this policy may apply to full-time, part-time, temporary, and volunteer employees of the City of Sparta, Tennessee. The policy also applies to applicants for positions requiring a CDL who have been given a conditional offer of employment from the City of Sparta, Tennessee. (Ord. #95-684, Jan. 1996)

4-703. Consent form. Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, medical review officer, or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug and alcohol testing policy.

The consent form shall set forth the following information.

- (1) The procedure for confirming and verifying an initial positive test result,
- (2) The consequences of a verified positive test result, and
- (3) The consequences of refusing to undergo a drug and/or alcohol test.

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system. (Ord. #95-684, Jan. 1996)

4-704. Compliance with substance abuse policy. Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for termination. (Ord. #95-684, Jan. 1996)

4-705. General rules. These are the general rules governing the City of Sparta, Tennessee's drug and alcohol testing program:

- (1) City employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over-the-counter medications shall notify the proper supervisory personnel before the employee's go on duty.
- (2) City employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on city property.

(3) All City of Sparta, Tennessee property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. City property includes, but is not limited to, vehicles, desks, containers, files, and lockers.

(4) Any employee convicted of violating a criminal drug statute shall inform the director of his/her department of such conviction (including pleas of guilty and nolo contendere) within five days of the conviction occurring. Failure to so inform the city subjects the employee to disciplinary action up to and including termination for the first offense. The city will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act. (Ord. #95-684, Jan. 1996)

4-706. Drug testing. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six separate conditions:

(1) Types of tests. (a) Pre-employment. All applicants for employee status for positions requiring a CDL who have received a conditional offer of employment with the City of Sparta, Tennessee, must take a drug test before receiving a final offer of employment.

(b) Transfer. Employees transferring to another position within the city that requires a commercial driver's license (CDL) shall undergo drug testing.

(c) Post-accident/post-incident testing. Following any workplace accident (incident) determined by supervisory personnel of the City of Sparta, Tennessee to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible drug use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) drug test.

Post-accident (post-incident) testing shall be carried out within 32 hours following the accident (incident). Urine collection for post-accident (post-incident) testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident (post-incident) testing is to be performed, the City of Sparta, Tennessee reserves the right to instruct

the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

(i) Post-accident (post-incident) testing for ambulatory employees. Following all workplace accidents (incidents) where drug testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City of Sparta, Tennessee to the designated urine specimen collection site within 32 hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the designated urine specimen collection site within 32 hours. No employee shall consume drugs prior to completing the post accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the City of Sparta, Tennessee and shall result in administrative action up to and including termination of employment.

(ii) Post-accident (post-incident) testing for injured employees. An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the City of Sparta, Tennessee appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of Sparta, Tennessee or upon hiring following the implementation date.

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's

system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within 32 hours must be fully documented by the attending medical personnel.

(d) Testing based on reasonable suspicion. A drug test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible drug use. One supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of Sparta, Tennessee making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city administrator/utilities manager within 24 hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

(e) Random testing. Only employees of the City of Sparta, Tennessee possessing or wishing to obtain a commercial driver's license (CDL) are subject to random urine drug testing. (Note - The requirement to randomly test police, fire, or electric department employees is optional.) It is the policy of the City of Sparta, Tennessee to annually random test for drugs at least 50 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e. vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City of Sparta, Tennessee may omit that employee from that random testing or await the employee's return to work.

(f) Return-to-duty and follow-up. Any employee of the City of Sparta, Tennessee who has violated the prohibited drug conduct standards and is allowed to return to work, must submit to a return-to-duty test. Follow-up tests will be unannounced and at least six tests will be conducted in the first 12 months after an employee returns to

duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee possessing a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

(2) Prohibited drugs. All drug results will be reported to the medical review officer (MRO). If verified by the MRO, they will be reported to the city administrator/utilities manager. The following is a list of drugs for which tests will be routinely conducted. Cut-off levels are as established by applicable federal and state laws and regulations.

- (a) Amphetamines,
- (b) Marijuana, cocaine,
- (c) Opiates,
- (d) Phencyclidine (PCP),
- (e) Alcohol, and
- (f) Depressants.

The city may test for any additional substances listed under the Tennessee Drug Control Act of 1989.

(3) Drug testing collection procedures. Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the City of Sparta, Tennessee to a drug test collection facility selected by the City of Sparta, Tennessee where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the City of Sparta, Tennessee to perform the analysis on collected urine samples.

(4) Drug testing laboratory standards and procedures. All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the testing site within 32 hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee

has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the city administrator/utilities manager.

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

(a) The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the City of Sparta, Tennessee.

(b) Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.

(c) The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the city administrator/utilities manager, and the employee.

(d) Neither the City of Sparta, Tennessee, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney. (Ord. #95-684, Jan. 1996)

4-707. Alcohol testing. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to alcohol testing under six separate conditions:

(1) Types of tests. (a) Post-accident/post-incident testing. Following any workplace accident (incident) determined by supervisory personnel of the City of Sparta, Tennessee to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible alcohol use as

determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) alcohol test.

Post-accident (post-incident) testing shall be carried out within two hours following the accident (incident).

(i) Post-accident (post-incident) testing for ambulatory employees. Following all workplace accidents (incidents) where alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City of Sparta, Tennessee to the designated breath alcohol test site for a breath alcohol test within two hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the designated breath alcohol test site within two hours. No employee shall consume alcohol prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the City of Sparta, Tennessee and shall result in administrative action up to and including termination of employment.

(ii) Post-accident (post-incident) testing for injured employees. An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the City of Sparta, Tennessee appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of Sparta, Tennessee or upon hiring following the implementation date.

Post-accident (post-incident) breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the employees system. Only an accepted method for collecting specimens will be

used. Any failure to do post-accident (post-incident) testing within two hours must be fully documented by the attending medical personnel.

(b) Testing based on reasonable suspicion. An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol use. One supervisor who has received alcohol detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of Sparta, Tennessee making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city administrator/utilities manager within eight hours of the decision to test and before the results of the tests are received by the department.

(c) Random testing. Only employees of the City of Sparta, Tennessee possessing or wishing to obtain a commercial driver's license (CDL) are subject to random alcohol testing. It is the policy of the City of Sparta, Tennessee to annually random test for alcohol at least 25 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e. vacation, sick day, out of town, work-related causes, etc.) to be tested on the date random testing occurs, the City of Sparta, Tennessee may omit that employee from that random testing or await the employee's return to work.

(d) Return-to-duty and follow-up. Any employee of the City of Sparta, Tennessee who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee with a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

(2) Alcohol testing procedures. All breath alcohol testing conducted for the City of Sparta shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

(Note - The Sparta Police department cannot do this testing unless the test is required because of a traffic accident (incident).)

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

(a) Step one. An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

(b) Step two. Fifteen minutes shall be allowed to pass following the completion of Step One above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall insure that the evidential breath testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then Step One shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the City of Sparta, Tennessee up to and including termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of up to 0.02 percent before returning to duty with the City of Sparta, Tennessee.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the City of Sparta, Tennessee when possible.

The completed breath alcohol test form shall be submitted to the city administrator/utilities manager. (Ord. #95-684, Jan. 1996)

4-708. Education and training. (1) Supervisory personnel who will determine reasonable suspicion testing. Training for supervisory personnel who will be responsible for determining whether an employee must be tested based on reasonable suspicion will include at the minimum two 60-minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period will be for drugs and one will be for alcohol.

The City of Sparta, Tennessee will sponsor a drug-free awareness program for all employees.

(2) Distribution of information. The minimal distribution of information for all employees will include the display and distribution of:

- (a) Informational material on the effects of drug and alcohol abuse;
- (b) An existing community services hot-line number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;
- (c) The City of Sparta, Tennessee policy regarding the use of prohibited drugs and/or alcohol; and
- (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace. (Ord. #95-684, Jan. 1996)

4-709. Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result. Job applicants will be denied employment with the City of Sparta, Tennessee if their initial positive pre-employment drug and alcohol test results have been confirmed/verified.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and including termination. The city may consider the following factors in determining the appropriate disciplinary response: the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. However, the city reserves the right to allow employees to participate in an education and/or treatment program approved by the city as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through a program sanctioned by the city, and thereafter refrain from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not prohibit disciplinary action for the violation of

city personnel policy and regulations, nor will it relieve the employee of any requirements for return to duty testing.

Refusing to submit to an alcohol or controlled substances test means that an employee:

(1) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(2) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(3) Engages in conduct that clearly obstructs the testing process.

In either case the physician or breath alcohol technician shall provide a written statement to the city indicating a refusal to test. (Ord. #95-684, Jan. 1996)

4-710. Voluntary disclosure of drug and/or alcohol use. In the event that an employee of the City of Sparta, Tennessee is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private. Such voluntary desire for help with a substance abuse problem will be honored by the City of Sparta, Tennessee. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of the City of Sparta, Tennessee may be allowed up to 30 consecutive calendar days for initial substance abuse treatment as follows:

(1) The employee must use all vacation, sick, and compensatory time available.

(2) In the event accumulated vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of 30 calendar days, the employee will be provided unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 30 day treatment period. An exception to the 30 day rule applies to cases where the provisions of the Family and Medical Leave Act (FMLA) are applicable in which cases the length of leave time granted is up to 12 weeks.

Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to recommendation from the substance abuse professional (SAP) of the City of Sparta, Tennessee. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective department head and city administrator/utilities manager of the City of Sparta, Tennessee will consider

each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City of Sparta, Tennessee. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy. (Ord. #95-684, Jan. 1996, modified)

4-711. Exceptions. This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoxilyzer demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol and/or drugs. (Ord. #95-684, Jan. 1996)

4-712. Modification of policy. This statement of policy may be revised by the City of Sparta, Tennessee at any time to comply with applicable federal and state regulations that may be implemented to comply with judicial rulings or to meet any changes in the work environment or changes in the drug and alcohol testing policy of the City of Sparta, Tennessee. (Ord. #95-684, Jan. 1996)

4-713. Definitions. For purposes of the drug and alcohol testing policy, the following definitions are adopted:

(1) "Alcohol." The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

(2) "Alcohol concentration." The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

(3) "Alcohol use." The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

(4) "Applicant." Any person who has on file an application for employment or any person who is otherwise being considered for employment or transfer to a position requiring a commercial driver's license (CDL). For the purposes of this policy, an applicant may also be an employee transferring to or applying for a position requiring a CDL.

(5) "Breath Alcohol Technician (BAT)." An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

(6) "Chain of custody." The method of tracking each urine specimen to maintain control from initial collection to final disposition of such samples and accountability at each stage of handling, testing, storing, and reporting.

(7) "Collection site." A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen that will be analyzed for the presence of alcohol and/or drugs. Collection site may also include a place for the administration of a breath analysis test.

(8) "Collection site personnel." A person who instructs donors at the collection site.

(9) "Commercial Drivers License (CDL)." A motor vehicle driver's license required to operate a commercial motor vehicle (CMV).

(10) "Commercial Motor Vehicle (CMV)." Any vehicle or combination of vehicles meeting the following criteria: weighing more than 26,000 pounds; designed to transport more than 15 passengers; transporting hazardous materials required by law to be placarded, regardless of weight; and/or classified as a school bus.

(11) "Confirmation test." In drug testing, a second analytical procedure that is independent of the initial test to identify the presence of a specific drug or metabolite that uses a different chemical principle from that of the initial test to ensure reliability and accuracy. In breath alcohol testing, a second test following an initial test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.

(12) "Confirmed positive result." The presence of an illicit substance in the pure form or its metabolites at or above the cutoff level specified by the National Institute of Drug Abuse identified in two consecutive tests that utilize different test methods and that was not determined by the appropriate medical, scientific, professional testing, or forensic authority to have been caused by an alternate medical explanation or technically insufficient data. An EBT result equal to or greater than 0.02 is considered a positive result.

(13) "Consortium." An entity, including a group or association of employers or contractors, which provides alcohol or controlled substances testing as required by this part or other DOT alcohol or drug testing rules and that acts on behalf of the employers.

(14) "Department director." The director or chief of a city department or his/her designee. The designee may be an individual who acts on behalf of the director to implement and administer these procedures.

(15) "DHHS." The federal Department of Health and Human Services or any designee of the secretary, Department of Health and Human Services.

(16) "DOT agency." An agency of the United States Department of Transportation administering regulations related to alcohol and/or drug testing. For the City of Sparta, Tennessee, the Federal Highway Administration (FHWA) is the DOT agency.

(17) "Driver." Any person who operates a commercial motor vehicle.

(18) "Employee." An individual currently employed by the City of Sparta, Tennessee.

(19) "Evidential Breath Testing Device (EBT)." An instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."

(20) "FHWA." Federal Highway Administration.

(21) "Initial test." In drug testing, an immunoassay test to eliminate negative urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

(22) "Medical Review Officer (MRO)." A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information.

(23) "Negative result." The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.

(24) "NHTSA." National Highway and Traffic Safety Administration.

(25) "Refuse to submit." Refusing to submit to an alcohol or controlled substances test means that a driver:

(a) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(b) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(c) Engages in conduct that clearly obstructs the testing process.

(26) "Safety-sensitive drivers." Employees in the aviation, motor carrier, railroad, and mass transit industries.

(27) "Split specimen." Urine drug test sample will be divided into two parts. One part will be tested initially, the other will remain sealed in case a retest is required or requested.

(28) "Substance abuse professional." A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and

treatment of alcohol and controlled substances-related disorders. (Ord. #95-684, Jan. 1996)