TITLE 4

MUNICIPAL PERSONNEL

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CHAPTER 1

SOCIAL SECURITY

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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 of 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 POLICY

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4-201. Policy declared. It is hereby the declared personnel policy of the city that:

(1) Employment in the city government shall be based on merit and fitness, free of personal and political considerations.

(2) Just and equitable incentives and conditions of employment shall, be established and maintained to promote efficiency and economy in the operation of the city government.

(3) Positions having similar duties and responsibilities shall be classified and compensated on a uniform basis.

(4) Appointments, promotions and other actions requiring the application of merit principles shall be based on evaluations of past employment and recommendations of superiors.

(5) Every consideration shall be given of the rights and interests of employees consistent with the best interests of the public and the city.

(6) Tenure of employees covered by this chapter shall be subject to good behavior, the satisfactory performance of work, necessity for the performance or work, and the availability of funds.

(7) High morale shall be promoted by the fair administration of this chapter.

(8) Every employee has a moral obligation and is expected to comply with the spirit and intent of this merit system. (1978 Code, § 1-801)

4-202. Pay policy; guidelines for establishing salaries. In order to assure the recruitment and retention of personnel necessary to maintain a continued high level of public service, it is the policy of the city that the level of compensation of municipal employees should favorably compare with prevailing rates in private industry and other governmental agencies in the competitive area. In carrying out this policy, consideration shall be given to the duties and responsibilities of the various types of positions, rates paid for comparable services in public and private employment, experience in recruiting for such positions, and availability of funds. (1978 Code, § 1-802)

4-203. Hours of work and overtime; normal work-week. The number of hours an employee is required to be on duty each day, week or month shall, as far as practicable, be uniform for all regular employees in the same class. The normal work-week for full time regular employees in different groups shall be a total of forty (40) hours per week. (1978 Code, § 1-803)

4-204. Recruiting of employees. Individuals shall be recruited from a geographic area as wide as is necessary to assure obtaining well-qualified
candidates for the various types of positions. Employment, therefore, shall not necessarily be limited to residents of Sparta. However, in cases where residents and non-residents are equally qualified for particular vacant positions, the residents shall receive first consideration in filling such vacancies. (1978 Code, § 1-804)

4-205. **Department heads required to live within city limits.** Department heads are required to live within the corporate limits of the City of Sparta. For the purpose of meeting the requirements of this paragraph, department head is defined to include the following positions:

- Police Chief
- Fire Chief
- Street/Sanitation Superintendent
- Electric Superintendent
- Water/Sewer Superintendent

If, at the time of recruitment, the most qualified applicant for a department head position resides outside the city limits of Sparta, the board of mayor and aldermen may approve a reasonable period of time within which the applicant will comply with the provisions of this paragraph. (1978 Code, § 1-804(a))

4-206. **Recruiting notices and publicity.** The mayor or city recorder shall prepare recruiting notices publicizing the endeavors to secure applicants and provide candidates for positions. Such various media of publicity shall be used as might be expected to bring notice of recruitment to as many qualified persons as possible. In publicizing particular recruitment needs, advertising shall be limited to the media available in Sparta for a reasonable period of time. If such advertising fails to produce a sufficient number of well-qualified applicants, the mayor or city recorder may utilize appropriate media beyond Sparta. (1978 Code, § 1-805)

4-207. **Applications.** Applications for employment shall be accepted at any time. Each candidate for municipal employment shall make application on the standard form prescribed and provided by the city board. Such information may be required as is deemed necessary in order to judge the applicant's fitness for services in the city. Applications shall not be returned but will remain on file in the city for two (2) years, after which they may be destroyed, if the applicant has not indicated a continued interest within the last year. (1978 Code, § 1-806)

1Section II of Ord. #95-680 provides:

"This ordinance shall become effective upon its final passage provided however, that the requirements of the ordinance shall be prospective only and shall not be applicable to department heads who are employees of the City of Sparta at the time of final passage of this ordinance."
4-208. **Reference checks.** As part of the pre-employment procedure, former supervisors, employers (for a reasonable past period) and references provided by candidates on the standard application form shall be checked as a precaution against obtaining undesirable employees. Reference checks made by personal or telephone contact shall be documented and made a part of the applicant's file. These reference checks shall be completed prior to an offer of employment and the information be made a part of the application file. All such information is to be handled as privileged information. (1978 Code, § 1-807)

4-209. **Examinations.** All applicants for positions in the classified service may be subject to competitive examination. Any written or oral examination shall pertain to those matters which test fairly the capacity of the candidate to discharge efficiently the duties of the class for which the examination is held. Written and oral examinations may take into consideration such factors as education, experience, aptitude, knowledge, character, or other qualifications which enter into the determination of the relative fitness of applicants. Any applicant who needs a reasonable accommodation in order to take any such oral or written examination should notify the testing office immediately. All applicants who receive a conditional offer of employment may be required to undergo a physical examination prior to beginning their employment with the city. (1978 Code, § 1-808, modified)

4-210. **Removal from consideration.** The board of mayor and aldermen, by notification to the applicant, may remove from further consideration the application of an applicant who:

1. Does not possess the minimum qualifications required for any acceptable position;
2. Has established an unsatisfactory employment or personal record, as evidenced by reference checks of such a nature as to demonstrate unsuitability for employment;
3. Has made false statement of any material fact or practiced deception in his application;
4. Is afflicted with a mental or physical disability that prevents the applicant from performing the essential functions of the position, with or without reasonable accommodation;
5. Is believed to be a current user of drugs or alcohol;
6. Has been convicted of crimes other than minor traffic violations;
7. Does not reply to a mail inquiry within ten (10) days or does not return a telephone inquiry within two (2) days;
8. Fails to accept appointment within two (2) days or to report for duty within a reasonable time prescribed in the offer. (1978 Code, § 1-809, modified)
4-211. Discrimination. There shall be no discrimination against or in favor of a candidate or an employee because of race, color, religion, sex, national origin, age, or disability. Standards with respect to educational requirements shall be used only where essential to the performance of the duties of the position. All candidates for a position shall be evaluated against the same qualification requirements. (1978 Code, § 1-810)

4-212. No harassment policy. The City of Sparta does not and will not tolerate illegal harassment of its employees. Any form of harassment related to an individual's race, color, sex, religion, national origin, age, or disability is a violation of this policy and will be treated as a disciplinary matter. The term "harassment" includes, but is not limited to, slurs, jokes and other verbal, graphic, or physical conduct relating to an individual's race, color, sex, religion, national origin, age or disability. "Harassment" also includes sexual advances, requests for sexual favors, unwelcome or offensive touching, and other verbal, graphic or physical conduct of a sexual nature. If you have any questions about what constitutes harassing behavior, please contact the city administrator.

Any employee who has a complaint of harassment at work by anyone, including supervisors, co-workers, or visitors must bring the problem to the attention of responsible city officials. Employees may bring their complaints to the city administrator or any member of the board of alderman [or any other appropriate official]. All complaints will be promptly investigated as confidentially as possible, and, where appropriate, disciplinary action, up to and including discharge, will be taken. No employee will be penalized in any way for truthfully reporting a harassment problem. Do not assume that the city is aware of your problem.

Violation of this policy will subject an employee to disciplinary action, up to and including immediate discharge.

4-213. Citizenship. To be eligible for employment in any position with the municipal service, each candidate must be a citizen of the United States; provided, however, the board may waive this requirement if in their opinion the city will benefit in more efficient administration of its affairs by such waiver. (1978 Code, § 1-811)

4-214. Method of requesting employees. Whenever a vacancy in any position in the classified service is to be filled, the department head shall submit a requisition containing the class title of the position; the number of positions to be filled; the location and hours of work; any special qualification requirements for the position; any recommendation as to whether the position should be filled by promotion, transfer, demotion or appointment; and other pertinent information required. (1978 Code, § 1-812)
4-215. **File of candidates, applicants, employees.** The city recorder shall maintain a file of candidates, applicants, and employees, who have qualified for the various classes and/or positions in the classified service. Subject to completion of all examination requirements, candidates are eligible for inclusion and consideration at any time. (1978 Code, § 1-813)

4-216. **Rating of applicants.** Applicants will be rated by the department head and the mayor or his designee, when an appropriate vacancy occurs, in light of the qualifications for the particular position as follows:

1. Group A-outstandingly qualified;
2. Group B-well qualified. Usually has significant experience or training appropriate for the position;
3. Group C-meets the minimum essential requirements for the position.

Applicants may frequently be rated in group A, B, or C based on training and experience reflected in the application, information furnished by reference checks, and test results. If during the screening process for filling a position, additional information is obtained which reflects significantly on an applicant's suitability for the position, his rating may be changed to a higher or lower group.

Employees shall be evaluated only as to whether they do, or do not, meet the minimum requirements for the position. (1978 Code, § 1-814)

4-217. **Order of certification.** Employee candidates qualified for promotion to a vacant position shall be certified as available candidates.

If action under § 4-219 does not provide an adequate number of well-qualified candidates for selection, applicant candidates may also be certified from the open competitive groups along with employee candidates to obtain a sufficient number to permit selection of a well-qualified candidate. Employee candidates, and applicant candidates rated in group A, shall be certified for selection first. If there are none in group A, employee candidates, and applicant candidates in group B, shall be certified. Similarly, if there are none in group A or group B, employee candidates, and applicant candidates in group C, may be certified.

Candidates shall be certified and selections made in accordance with § 4-219 and § 4-220 except in the following case:

When an eligible candidate has indicated that he would not accept appointment to a position because of hours of work, location of work, or the particular office. (1978 Code, § 1-815, modified)

4-218. **Appointments.** All vacancies in the classified service shall be filled by regular appointment, temporary appointment, promotion, transfer or demotion. Appointment to a vacancy in the classified service shall be recommended by the department head from the candidates certified and submitted to the board for approval. (1978 Code, § 1-816)
4-219. **Regular appointment.** Regular appointment indicates that the employee is to work for the city on a continuing basis. Every regular employee shall serve a probationary period after original appointment. The probationary period shall extend for three (3) months for police classes and six (6) months for all other classes. The probationary period shall be regarded as an integral part of the evaluation process and shall be utilized for closely observing the employee's work, for obtaining the most effective adjustment of a new employee in his position, and for separating any new employee whose performance does not meet the required standards. The status of the appointment shall not be changed from probationary to regular until a certification is made by the department head that the employee's services are satisfactory. (1978 Code, § 1-817)

4-220. **Temporary appointment.** Temporary appointment indicates that the employee is to work for the city for a period of less than six (6) consecutive months. When an employee has service of six (6) consecutive months in a temporary appointment, a personnel action shall be submitted changing his status to regular or separating him from the service. A regular employee shall not have his status changed to temporary when there is no break in service.

Temporary employees shall receive compensatory leave in accordance with these rules, but shall not receive annual or other types of leave during their temporary appointment. When the appointment of an employee is changed from temporary to regular, crediting of annual leave and sick leave becomes retroactive to the date of the original appointment, provided there has been no break in service as defined in this chapter.

The pay of temporary employees shall be computed on an hourly basis and no pay shall be given for time not worked except as provided in the above paragraph.

Temporary employees may be separated at any time within the six (6) months appointment when their services are no longer required. The separation is not subject to the rules under §§ 4-225 to 4-232. (1978 Code, § 1-818)

4-221. **Regular part-time employment classification.** A regular part-time employee is defined as an employee who works part-time hours on a regular basis.

Regular part-time employees are eligible for vacation benefits as all other employees except on a prorated basis. The number of prorated days due an employee will be based on the average number of hours worked per week during the previous twelve months beginning from the employee's date of hire.

Every regular part-time employee shall serve a probationary period after original appointment. The probationary period shall extend for three (3) months. The probationary period shall be regarded as an integral part of the evaluation process and shall be utilized for closely observing the employee's work and for obtaining the most effective adjustment of a new employee whose
performance does not meet the required standards. The status of the appointment shall not be changed from probationary to regular until a certification is made by the department head that the employee’s services are satisfactory. (1978 Code, § 1-819)

4-222. **Promotion policy.** Qualified employees shall be considered for promotion to fill any vacant position in the classified service before outside applicants are considered.

The city encourages employees to develop skills, attain greater knowledge of their work and make known their qualifications for promotion to more responsible and difficult positions.

No supervisor shall deny an employee permission to apply for a promotion opportunity in any city office or department.

When the board determines that intensive efforts have produced an insufficient number of well-qualified employees within the classified service, he may consider outside applicants along with employees in order to provide an adequate number of candidates for consideration. (1978 Code, § 1-820)

4-223. **Transfer.** Transfer of an employee from one position to another without change in grade may be effected when:

1. The employee meets the qualification requirements;
2. It is in the best interests of the city;
3. Further training and development of an employee in another position would be beneficial to future staffing potential of the city.
4. It meets a personal need of the employee and is consistent with (1) and (2) above. (1978 Code, § 1-821)

4-224. **Demotion.** An employee may be demoted to a position of a lower grade, and for which he is qualified, for any of the following reasons:

1. When an employee would otherwise be laid off because his position is being abolished, his position is reclassified to a lower grade; lack of work; lack of funds; or because of the return to work from authorized leave or another employee to such position in accordance with the rules on leave.
2. When an employee does not possess the necessary qualifications to render satisfactory service in the position he holds, or when removed during probation.
3. When an employee voluntarily requests such demotion.
4. For reason including but not limited to misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records, arrest or indictment for criminal offenses, violation of any of the provisions of the charter, ordinances, or these rules. (1978 Code, § 1-822, modified)
4-225. **Separation from classified service positions.** All separations of employees from positions in the classified service shall be designated as one of the following types and accomplished in the manner indicated:

1. Resignation;
2. Lay-off;
3. Dismissal;
4. Removal;
5. Disability;
6. Death;

4-226. **Return of city property; compensation; deductions.** At the time of separation and prior to final payment all records, assets, or other items of city property in the employee's custody shall be transferred to the city recorder and a certification to this effect shall be executed by the departing employee. Any amount due because of a shortage in the above shall be withheld from the employee's final compensation or collected through other appropriate action.

Employees who separate shall receive payment for all earned salary, all compensatory time due and earned, annual and personal leave subject to deduction for:

1. Any indebtedness pursuant to the first paragraph in this section.
2. Sick leave advanced prior to accrual unless the separation is for disability. (1978 Code, § 1-824, modified)

4-227. **Resignation.** Any employee may resign by submitting in writing the reasons therefor and the effective date to the city recorder as far in advance as possible, but a minimum of two (2) weeks is desired.

Failure to comply with the requirements in this section may be cause for denying future employment with the city. (1978 Code, § 1-825)

4-228. **Lay-off.** When a position must be discontinued or abolished because of a change in duties, reorganization, lack of work, or lack of funds, the department head shall submit a report to the mayor together with a recommendation as to the employee to be laid off.

The mayor shall determine the order of lay-off of employees on the basis of the relative suitability for the jobs that remain and length of continuous service with the city, except that no regular employee shall be separated while there is a temporary or probationary employee in any class performing duties for which the regular employee is at least equally qualified, and applies. Regular employees subject to lay-off shall be notified in writing two (2) calendar weeks prior to the effective date, whenever possible.

Employees who are laid off shall, upon request, be placed on the open examination list for any class for which qualified. (1978 Code, § 1-826)
4-229. **Probationary period.** The probationary, or working test period, is an integral part of the examination process and shall be utilized for the following:

Closely observing the employee's work.
Securing the most effective adjustment of a new or promoted employee to a position.
Rejecting any employee whose performance does not meet work standards.

The probationary period for all regular appointments shall be for a period of 12 months for law enforcement employees and 6 months for all other employees. If it is determined to be necessary to observe and evaluate an employee for a period of time longer than the minimum probationary period specified by this paragraph in order to be able to determine if the probationary employee should be recommended for permanent employment, the department head in charge of the employee may request an extension of the probationary period with the prior approval of the city administrator and/or utilities manager. In no event may a probationary period be extended beyond 18 months from the employee's date of hire.

During the probationary period the city administrator and/or utilities manager shall require the department head to report the observations of the employee's work and their judgment of the employee's willingness and ability to perform the duties assigned. During the probationary period the supervisor will inform the employee when his/her performance is unsatisfactory.

A performance evaluation shall be completed and submitted to the city administrator and/or utilities manager at least ten (10) days prior to the expiration of an employee's probationary period. At this time, the department head shall notify the city administrator and/or utilities manager if the service of the employee has been satisfactory and whether the employee is recommended for continued employment. (1978 Code, § 1-827)

4-230. **Disability and physical examinations.** (1) An employee may be separated for disability when he or she cannot perform the essential functions of the job, with or without reasonable accommodations.

(2) The city may require that any employee submit to a physical examination at the city's expense and performed by a physician of its choice.

(3) All employees of the police and fire departments, and all truck drivers and heavy equipment operators shall be required to submit to a physical examination at the city's expense and performed by a physician of its choice at least once each year, for the purpose of determination of physical ability to perform the duties required. (1978 Code, § 1-828, modified)

4-231. **Death.** Separation shall be effective as of the date of death.
All compensation due in accordance with the second paragraph of § 4-225 shall be paid to the estate of the employee, except for such sums as by law may be paid to the surviving spouse.

Employees shall be separated at the close of the weekly pay period in which they meet the age and/or time restrictions in § 4-257. (1978 Code, § 1-829)

4-232. Definitions.  (1) "City administrator." The employee assigned authority to administer the provisions of this chapter.

(2) "Employee." For purposes of interpreting the provisions of this chapter, employee shall be defined as all employees with the exception of the administrator, utilities manager, and department heads. (1978 Code, § 1-830, as replaced by Ord. #06-817, Nov. 2006)

4-233. Disciplinary action. Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, supervisors shall inform employees promptly and specifically of such lapses and shall give them counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. The types of disciplinary action are:

Oral reprimand.
Written reprimand.
Suspension.
Dismissal. (1978 Code, § 1-830.1)

4-234. Oral reprimand. Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor shall inform the employee promptly and specifically of such lapses and shall give counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary actions. (1978 Code, § 1-830.2)
4-235. **Written reprimand.** In situations where an oral warning has not resulted in the expected improvement, or when more severe initial action is warranted, a written reprimand may be sent to the employee, and a copy shall be placed in the employee's personnel record at city hall. (1978 Code, § 1-830.3)

4-236. **Suspension.** An employee may be suspended with or without pay by the department head with the approval of the city administrator and/or utilities manager, for a period not to exceed a total of 30 days in any 12 month period. (1978 Code, § 1-830.4)

4-237. **Suspension without pay.** Suspensions without pay require a formal hearing with the city administrator and, if applicable, the department head, prior to the suspension to allow the employee the opportunity to hear the charges against him/her, and to present his/her side. A written statement of the reason for suspension shall be submitted to the employee affected at least 24 hours prior to the time the suspension becomes effective.

   An employee determined to be innocent of the charges shall be returned to duty with full pay for the period of suspension.

   In addition, any employee suspended without pay or otherwise placed on unpaid leave following an arrest who is later found to be not guilty or has the charges against him or her dropped will be entitled to back pay for the time the employee was suspended without pay or otherwise placed on unpaid leave. Such back pay will not be paid if an employee pleads guilty to the charges, enters into a plea agreement on the charges, or completes pre-trial diversion or otherwise has his or her record expunged. (1978 Code, § 1-830.4(a), as replaced by Ord. #11-861, Jan. 2012)

4-238. **Suspension with pay without prior notice.** A suspension with pay may be without prior notice if the suspension is for causes related to personal conduct and is necessary in order to avoid undue disruption of work, protect the safety of persons or property, or for other serious reasons. In the case of suspensions with pay for a period greater than 3 days, the employee shall have the right to request a hearing with the city administrator and/or utilities manager provided that a request for a hearing is made within 10 days from the time the notice of suspension is given. In cases of a suspension with pay but without prior notice, a written statement of the reasons for the suspension shall be prepared with one copy sent by certified mail to the employee and one copy filed in the employee's personnel file.

   If the results of the investigation or hearing determine the employee to be innocent of the charges, the employee shall be returned to regular employment status and a memorandum of the findings placed in their personnel file.

   If the results of the investigation or hearing determine the employee to be guilty of the charges, the city administrator and/or utilities manager shall
determine the appropriate disciplinary action based on the severity of the acts. (1978 Code, § 1-830.4(b), as amended by Ord. #96-686, March 1996)

4-239. Dismissal. The city administrator may dismiss an employee with or without cause, including but shall not be limited to the following reasons: misconduct, negligence, incompetence, insubordination, unauthorized or excessive absences, lack of work, falsification of records, arrest or indictment for criminal offenses, violation of any of the provisions of the city's charter, ordinances, or these personnel policies and/or rules.

Terminated employees who have new evidence previously not presented for consideration in the decision to terminate their employment with the city and who would like to submit an appeal of their termination may make a written request for a review of the decision within ten (10) business days of the termination. The request should be submitted to the city administrator and should include the new or additional evidence that the employee would like to present for consideration. The city administrator will review the new or additional evidence submitted and will respond in writing to the employee within ten (10) business days after receiving the written appeal. (1978 Code, § 1-830.5, as amended by Ord. #96-686, March 1996, and replaced by Ord. #11-861, Jan. 2012)

4-240. [Deleted]. (1978 Code, § 1-830.6, as deleted by Ord. #11-861, Jan. 2012)

4-241. Grievance procedures. A grievance is defined as an employee's feeling of dissatisfaction; any difference or disagreements or disputes arising between an employee and his supervisor and/or employer with some aspect of his employment, application of interpretation of regulations and policies, or some management decision affecting him. A grievance can be something real, alleged, or a misunderstanding concerning rules and regulations or an administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, transfer, layoff, recall and any other related items.

Employee(s) who have a complaint or grievance may discuss the grievance with his/her immediate supervisor, a higher-level supervisor, and/or the department head. Every employee may present a complaint or grievance under the provisions of the grievance procedures free from fear, interference, restraint, discrimination, coercion, or reprisal.

Steps of the grievance procedure are as follows:

Step 1. The employee makes an oral or written presentation of the complaint or grievance to the immediate supervisor. It shall be the supervisor's responsibility to promptly consider and take action. The supervisor shall inform the employee of the decision and any
action taken shall be taken within 72 hours if appropriate and if the supervisor has the authority. The supervisor shall prepare a written report of the compliant or grievance and provide a copy of it to the department head. Any supervisor in the chain of command shall attach his/her recommendation regarding the unresolved complaint or grievance if it proceeds to a higher level. No supervisor may hold a complaint longer than 72 hours without forwarding it to the next supervisory level.

Step 2. If the grievance cannot be resolved at the supervisor level, the employee may reduce the complaint or grievance to writing and request that it be reviewed by the department head, who will consider the grievance and take appropriate action, if necessary. The department head will respond in writing to the grievant within five (5) business days after receiving the written complaint or grievance.

Step 3. If the grievance is not resolved with the department head, the employee may request in writing that the complaint or grievance be reviewed by the city administrator who will consider the grievance and take appropriate action, if necessary. The city administrator will respond in writing to the grievant within ten (10) business days after receiving the written complaint or grievance. (1978 Code, § 1-830.7, as replaced by Ord. #11-861, Jan. 2012)

4-242. Leave. Leave is any authorized absence during regularly scheduled work hours that is approved by proper authority. Leave may be authorized with or without pay. Absence without leave is considered unauthorized absence.

Leave shall be granted in accordance with these rules on the basis of the work requirements of the departments and, whenever possible, the personal wishes of the employees. The mayor may delegate the authority to approve leave to department heads, who shall not have the power of redelegation. (1978 Code, § 1-831)

4-243. Types of leave. The following types of leave, and no other, are officially established:

(1) Annual leave (see § 4-245).
(2) Sick leave (see § 4-246).
(3) Leave for injury in line of duty (see § 4-247).
(4) Military leave (see § 4-248).
(5) Leave without pay (see § 4-249).
(6) Holiday leave (see § 4-250).
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(7) Civil leave (see § 4-251).
(8) Administrative emergency leave (see § 4-252).
(9) Leave for death in family (see § 4-254).
(10) Family and medical leave (see § 4-255). (1978 Code, § 1-832)

4-244. Maintenance of leave records. The department heads shall be responsible for the maintenance of accurate leave records. Such records shall be kept on forms prescribed to the board, who may periodically inspect them to insure adherence to the provisions of these rules. (1978 Code, § 1-833)

4-245. Annual leave. It is the policy of the city to promote employee efficiency, health, and morale through periodic interruptions from their duties. Accordingly, employees shall accrue and be credited with, and shall exercise annual leave upon the terms and conditions following:

(1) Employees shall accrue and be credited with paid annual leave based upon the length of continuous service from date of employment, as follows:
   (a) From completion of 1 year through completion of 3 years, 1 work week.
   (b) From completion of 3 years through completion of 7 years, 2 work weeks.
   (c) From commencement of the 8th year, 3 work weeks.
   (d) From commencement of the 16th year, 4 work weeks.

(2) Vacation schedules:
   (a) Each department head will be responsible for preparation and notice of vacation schedules, and shall arrange the same so as to cause the least disruption of the services of his department. Any employee desiring to take vacation at a time other than as scheduled by the department head shall make application for change of schedule to the department head at least thirty (30) days prior to the time proposed for taking the same and so as not to coincide with scheduled vacations of other employees of the department; provided further, however, that by mutual agreement between employees, and the approval of the department head, employees may swap vacation times.
   (b) Request for annual leave by department heads and other administrative and clerical employees shall be submitted to the city administrator a reasonable time in advance of the proposed absence. The city administrator shall approve such requests consistently with the desires of the employee if the same may be so approved without disruption of the work requirements of the city.
   (c) The city administrator shall submit to the mayor requests for annual leave a reasonable time in advance of the proposed absence. The mayor shall approve such requests consistently with the desires of the employee if the same may be so approved without disruption of the work requirements of the city.
(3) An employee shall not receive the annual leave credit prescribed in the first paragraph of this section if he was in a non-pay or non-employment status for more than thirty (30) days of any accrual period. An employee whose appointment status is changed from temporary to regular without a break in service shall receive annual leave credits from the date of employment on temporary status.

(4) One work week of leave must be used as a unit each calendar year by employees entitled to one or two weeks paid annual leave. Employees entitled to three work weeks paid annual leave shall be required to take at least two work weeks of this leave as a unit. The remaining leave to which any employee shall be entitled may be taken in periods of multiples of one working day. The department heads shall be responsible for keeping the leave records of their employees. The city administrator shall be responsible for keeping the leave records of the department heads and administrative and clerical employees. The mayor shall be responsible for keeping the leave records of the city administrator.

(5) Employees must use or lose each accrual of annual leave by the end of the second accrual period following the one in which the leave was earned. Leave credit in excess of this limit shall be forfeited by the employee.

(6) Upon separation, an employee shall be paid for the unused portion of his accrued annual leave, subject to the second paragraph of § 4-226; provided, however, that anyone dismissed under any cause set out in § 4-232(3) shall forfeit all accrued annual leave.

(7) Annual leave shall not be granted when it is known that the employee does not expect to return to duty and separation shall be effected as of the last day worked, except in separation for disability or death. (1978 Code, § 1-834)

4-246. Leave for sickness. Sick leave shall be used when an employee is incapacitated by sickness, injury, or pregnancy, for medical, dental, or optical diagnosis or treatment; or as a result of exposure to a contagious disease when the employee's attendance at duty jeopardizes the health of others. No sick leave shall be allowed for minor illnesses lasting not more than three (3) days unless the employee is confined in a hospital at which time sick leave shall start from the first day.

An employee shall complete probation period or a minimum of three months work before being eligible for sick leave.

In cases where the employee is confined to the hospital or to his bed at home, he will be granted two weeks sick leave with pay provided he obtains a doctor's certificate certifying his confinement.

All employees who have completed their probationary period shall be credited with sick leave of one work day per month and such sick leave may accrue up to sixty (60) work days total of sick leave credited to the employee subject to the conditions set out in § 4-247; provided, however, that if an employee has actually accrued, at the rate of one work day per month, more
than sixty (60) work days total of sick leave, and is stricken and rendered disabled, the board of mayor and aldermen in its discretion may approve the extension of additional sick leave to the employee up to the amount of actual accrued leave.

Sick leave with pay may be granted to regular employees in accordance with the following provisions:

1. Sick leave shall not normally exceed the total amount credited to an employee at the time of his absence.
2. After sick leave credits have been used, absences due to illness may be charged to annual leave, personal leave, or leave without pay subject to minimum amounts chargeable under § 4-245.

Sick leave shall not be debited for absence on observed holidays or other non-work days.

Sick leave credits shall not be paid to an employee upon separation. However, a regular employee who is laid off or resigns for maternity reasons and returns to city employment within one (1) year from the date of separation shall have his former unused sick leave credits restored.

Reporting and investigating sickness together with other miscellaneous factors relative to sick leave shall be handled as follows:

1. **Reporting of sickness.** Employees, except police and fire employees, who are absent from duty for reasons which entitle them to sick leave shall ensure that their respective supervisors are notified within two (2) hours after their usual reporting time, if physically able to do so. Upon return to work the employee shall immediately submit to his supervisor an authorization for leave form. Police and fire employees shall notify their respective supervisors before their scheduled duty.
2. **Medical certificate.** A medical certificate may be required for any absence chargeable to sick leave; such statement shall normally be required for sick leave in excess of two (2) work-days.
3. **False or fraudulent use of sick leave.** The city may investigate any absence for which sick leave is requested. False or fraudulent use of sick leave shall be cause for dismissal or appropriate disciplinary action against the offending employee. (1978 Code, § 1-835)

**4-247. Leave for injury in line of duty.** Leave with pay, for a period not to exceed twelve (12) months, may be granted to any employee who incurs a disabling injury while performing the duties of his or her position, subject to the following procedure, terms and conditions:

1. A written application for leave under this provision shall be made by the employee, and shall contain a statement by the employee, confirmed by his supervisor, setting forth the details of the accident, and shall be accompanied by a statement from a licensed physician setting forth the nature and extent of the injury and probable period of disability. The employee shall,
if granted leave hereunder, provide the city administrator an updated medical report no less often than once per month during the period of disability.

(2) The board of mayor and aldermen shall either approve or disapprove the application, after having considered it and conducted any further proceedings it deems necessary to a proper determination.

(3) The board of mayor and aldermen reserves the right to request at any time that the employee undergo one or more medical examinations by a physician or physicians competent in the diagnosis and/or treatment of the type injury claimed by the employee, at the expense of the city. Refusal of the employee to submit to examination shall be cause for immediate termination of paid leave under these provisions.

(4) An injury in the line of duty shall be defined as an injury occurring within the scope of an employee's employment as defined by the law of worker's compensation of the State of Tennessee, and for which worker's compensation in accordance with said statutes is payable.

(5) If an application is approved, the employee shall be paid from the date of injury without interruption, with a reduction in salary made by the amount received by the employee for temporary total disability from worker's compensation insurance.

(6) Other leave benefits shall not accrue during the period of total disability for which payment is being made hereunder. (1978 Code, § 1-836)

4-248. Military leave. Military duty means:

(1) Training and service performed by an inductee, enlistee or reservist, or any entrant into a temporary component of the armed forces of the United States; and

(2) Time spent in reporting for and returning from such training and service, or if a rejection occurs, from the place of reporting therefor. It also includes active duty training as a reservist in the armed forces of the United States or as a member of the National Guard of the United States where the call is for training only.

Any regular employee who has completed his probationary period and who leaves the city service for military duty shall be placed on military leave without pay, such leave to extend through a date ninety (90) days after his release, or hospitalization, continuing after release for not more than one (1) year.

Also a regular employee who has completed his probationary period shall be granted a leave of absence for the purpose of being inducted or otherwise entering military duty. If not accepted for such duty, the employee shall be reinstated in his position without loss of seniority or status, or reduction in his rate of pay. During such period the employee shall for all purposes be considered to have rendered service and to have been compensated therefor at his regular rate of pay.
Such employee shall be entitled to restoration provided he makes application within ninety (90) days after the date of his release from duty under conditions other than dishonorable, and is physically and mentally capable of performing the duties of the position involved.

A returning employee shall normally be restored to the position which he vacated upon entering the military service. In the event that the vacated position no longer exists at the time he qualifies for return to work, such person shall be entitled to be re-employed in another existing position of the same class specification, provided such re-employment does not necessitate the laying off of another person with greater seniority.

A regular employee who leaves the service directly for such military leave without pay may elect to be paid for any accrued annual, personal or compensatory leave as he may be entitled to if he were actually separating from the city service. His decision shall be noted on the personnel action form effecting the leave. If the employee elects not to be paid for such leave, the accrued leave credits shall be reinstated upon return of the employee.

Employees restored to duty under these provisions shall have unused sick leave credits restored for their use.

According to the provisions of Tennessee Code Annotated, § 8-33-109, all employees who are, or may become, members of any reserve component of the armed forces of the United States, including members of the Tennessee army and air national guard, shall be entitled to leave of absence from their respective duties, without loss of time, pay, regular leave or vacation, impairment of efficiency rating, or any other rights or benefits to which otherwise entitled, for all periods of military service during which they are engaged in the performance of duty or training in the service of this state, or of the United States, under competent orders; provided, than an employee while on such leave shall be paid salary or compensation for a period, or periods, not exceeding fifteen (15) working days in any one (1) calendar year, plus such additional days as may result from any call to active state duty pursuant to Tennessee Code Annotated, § 58-1-106. The military leave herein provided shall be unaffected by date of employment or length of service and shall have no effect on other leaves provided by law, regulation, policy or practice. (1978 Code, § 1-837, as amended by Ord. #00-732, Oct. 2000)

4-249. **Leave without pay.** The mayor may grant a regular employee leave without pay or a period not to exceed one (1) year, subject to the following conditions:

1. Leave without pay may be granted only when it is in the interests of the city to do so. The needs of the employee shall be considered when he has shown by his record to be of more than average value to the city and when it is desirable to return the employee even at some sacrifice.

2. During an employee's approved leave of absence, his position may be filled by temporary appointment, a temporary promotion, or detail of another
employee. At the expiration of a leave without pay, the employee has the right to and shall be reinstated in the position he vacated if the position still exists; or, if not, to any other vacant position in the same class.

Approved leave without pay shall not constitute a break in service.

Failure on the part of the employee to report promptly at the expiration of a leave without pay may be cause for dismissal. (1978 Code, § 1-838)

4-250. Holiday leave. Except as provided in § 4-203, the following holidays are observed by the city and shall be granted to all employees without charge to leave: to regular employees with pay and to temporary employees without pay, unless such employees are required to be on scheduled duty.

1. New Year's Day (January 1).
3. Memorial Day.
4. Independence Day (July 4).
5. Labor Day (First Monday in September).
6. Veterans Day (November 11).
7. Thanksgiving Day (Fourth Thursday in November).

Except as provided herein, it shall be the policy of the city to insure that all regular employees enjoy the same number of holidays each year. The standard shall be the number of holidays in a particular year, which shall be celebrated by regular employees working a forty (40) hour week, Monday through Friday. For this group, when a holiday falls on a Saturday, it shall be observed on the preceding Friday; when a holiday falls on Sunday, the following Monday shall be observed. For regular employees on a work-week other than Monday through Friday, the mayor shall designate the work-day, which shall be observed.

The granting of holidays observed by the city shall be subject to the following provisions:

1. Holiday on scheduled work-day. Employees who are required to work on their observed holiday shall be granted either a work-day of leave or be paid for the time worked in accordance with the rules governing hours and overtime.

2. Holiday for part-time regular employees. Part-time regular employees shall be paid for observed holidays which fall on days for which they would otherwise be scheduled to work, according to the number of hours for which they are scheduled to work on that day.

3. Holiday during non-pay status. In order to receive pay for an observed holiday an employee must be in a work or paid leave status either his scheduled work-day immediately preceding or following the holiday, and must not have been absent without leave either the work-day before or after.
4-251. Civil leave. An employee shall be given necessary time off without loss of pay when:

1. Performing jury duty;
2. Required by duties, or subpoenaed, to appear before a court, public body, or commission as a witness on behalf of the city, or because of his official capacity with the city;
3. Performing emergency civilian duty in connection with national defense;
4. For the purpose of voting when the polls are not open at least one (1) hour before or after the employee's scheduled hours of work. (1978 Code, § 1-840)

4-252. Administrative emergency leave. The mayor may excuse employees from duty in emergency situations for short periods of time. Examples of emergencies would be extreme weather conditions; disaster, such as fire, flood or other natural phenomena which prevent employees from working or reporting to work; breakdown of machines; and emergency rescue or protection work. In the event an employee is a member of the civil defense or other emergency rescue organization, such employee shall notify his department head of the emergency and the department head will make a personal investigation or inquiry into the emergency before releasing the employee to attend the same and the department head is charged with determining if the emergency is serious enough for the employee to take off from his work and said department head will make proper reports to the mayor and board of aldermen of the time lost by such employee in emergency rescue work. (1978 Code, § 1-841)

4-253. Unauthorized absences. An employee who is absent from duty without approval shall:

1. Receive no pay for the duration of the absence;
2. Be subject to dismissal or other appropriate disciplinary action.

It is recognized that there may be extenuating circumstances for unauthorized absence and due consideration shall be given each case as to the type of leave to be approved for other appropriate disciplinary action.

Failure of an employee to report for work at the expiration of an authorized leave or to request an extension of such leave shall be considered an absence without leave.

Under ordinary circumstances, unavoidable or necessary absence from duty of less than one hour or tardiness may be excused without charge to leave if such absence or tardiness can be fully justified by the employee to his
supervisor's satisfaction. Otherwise, such absence will be handled administratively, by requiring additional work, or by a charge against compensatory time which the employee may have to his credit, or by charging the time to the employee's leave account. If the employee is frequently tardy, the supervisor should determine the cause of the tardiness in order to plan with the employee the corrective steps to be taken. (1978 Code, § 1-842)

4-254. Leave for death in family. An employee shall be given a maximum of two (2) work days off without loss of pay when the employee has suffered the death of his or her spouse, a parent or grandparent, a child or grandchild, a brother or sister, or a parent, grandparent, brother, sister or child of his or her spouse. Sick leave shall be requested and approved in accordance with the provisions of § 4-256 hereinafter. (1978 Code, § 1-843)

4-255. Family and medical leave. (1) Purpose. The purpose of this section is to make provisions for compliance with Public Law 103-3, titled the Family and Medical Leave Act of 1993.

(2) Definitions. (a) "Eligible employee." Eligible employees are those who have been employed for at least 12 months, who have provided at least 1,250 hours of service during the 12 months before leave is requested, and who work at a worksite where at least 50 employees are on the payroll (either at that site or within a 75-mile radius).

(b) "Parent." Mother or Father of an employee, or an adult who had day to day responsibility for caring for any employee during his or her childhood years in place of the natural parents.

(c) "Son of daughter/child." Biological, adopted, or foster child, a step child, legal ward, or child of a person standing in loco parentis, who are under the age of 18 years. Children who are 18 years or older qualify, if he or she is incapable of self care because of mental or physical disability.

(d) "Serious health condition." An illness, injury, impairment, or physical or mental condition involving either inpatient care or continuing treatment by a health care provider.

(3) Leave provisions. (a) An eligible employee may take up to 12 weeks of unpaid leave in a 12 month period for the birth of a child or the placement of a child for adoption or foster care. Leave may also be taken to care for a child, spouse, or parent who has a serious health condition. In addition, leave may be taken because of a serious health condition that causes an eligible employee to be unable to perform the essential functions of his or her job.

(b) The right to take leave applies equally to male and female employees who are eligible.
(c) FMLA Leave for the purposes of care for a newborn child or a newly placed adopted or foster care child must be taken before the end of the first 12 months following the date of birth or placement.

(d) An expectant mother may take FMLA leave upon the birth of the child, or prior to the birth of her child for necessary medical care and if her condition renders her unable to work. Similarly for adoption or foster care, leave may be taken upon the placement of the child or leave may begin prior to the placement if absence from work is requested for the placement to proceed.

(e) FMLA leave is unpaid. However, paid sick leave, annual leave, holiday pay, and compensatory time earned or accrued must be substituted in place of FMLA leave until all such earned or accrued leave has been fully used. Any remaining FMLA leave will be unpaid.

(f) During periods of unpaid leave, an employee will not accrue any additional seniority or similar employment benefits during the leave period.

(g) If spouses are employed by the same employer and wish to take leave for the care of a new child or sick parent, their aggregate leave is limited to 12 weeks. For example, if the father takes 8 weeks of leave to care for a child, the mother would be entitled to 4 weeks leave, for a total of 12 weeks of leave.

(4) Notification and scheduling. (a) An eligible employee must provide the employer at least 30 days advance notice of the need of leave for birth, adoption of planned medical treatment, when the need for leave is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen events, such as premature birth, or sudden changes in a patient’s condition that require a change in scheduled medical treatment.

(b) Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from the 30-day notice.

(5) Certification. (a) The employer reserves the right to verify an employee’s request for family medical leave.

(b) If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the employer requires that the request be supported by certification issued by the health care provider of the eligible employee of the family member as appropriate. If the employer has reason to question the original certification, the employer may, at the employer’s expense, require a second opinion from a different health care provider chosen by the employer. That health care provider may not be employed by the employer on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that option will be final and binding.
(c) This certification must contain the date on which the serious health condition began, its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the son, daughter, spouse, or parent and must include an estimate of the amount of time that the employee is needed to care for the family member.

(d) Medical certifications given will be treated as confidential and privileged information.

(e) An employee will be required to report periodically to the employer the status and the intention of the employee to return to work.

(f) Employees who have taken unpaid leave under this policy must furnish the employer with a medical certification from the employee's health care provider that the employee is able to resume work before return is granted.

(6) Maintenance of health and COBRA benefits during unpaid leave.

(a) The employer will maintain health insurance benefits, paid by the employer for the employee, during periods of unpaid leave without interruption. Any payment for family coverage/s premiums, or other payroll deductible insurance policies if available, must be paid by the employee or the benefits may not be continued.

(b) The employer has the right to recover from the employee all health insurance premiums paid during the unpaid leave period if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from recapture provision.

(c) Leave taken under this policy does not constitute a qualifying event that entitles an employee to COBRA insurance coverage. However, the qualifying event triggering COBRA coverage may occur when it becomes clearly known what an employee will not be returning to work, and therefore ceases to be entitled to leave under this policy.

(7) Reduced and intermittent leave:

(a) FMLA leave may be taken intermittently or on a reduced leave (part-time) basis when medically necessary as certified by the health care provider. If FMLA leave is taken for the birth of a child or the placement of a child for adoption or foster care, it must be taken at one time—not intermittently or on a reduced leave basis. The schedule must be mutually agreed upon by the employee and the employer.

(b) Employees on intermittent or reduced leave schedules may be temporarily transferred by the employer to an alternate position that may better accommodate the intermittent or reduced leave schedule.
(c) Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but will not exceed the equivalent of 12 workweeks total leave in a one 12-month period.

(8) Restoration. (a) Employees who are granted leave under this policy will be reinstated to an equivalent or the same position held prior to the commencement of their leave.

(b) Certain highly compensated key employees, who are salaried and among the 10% highest paid employees, may be denied restoration. Restoration may be denied if:

(i) The employee shows that such denial is necessary to prevent substantial and grievous economic injury to the employer's operations,

(ii) The employer notifies the employee that it intends to deny restoration on such basis at the time the employer determines that such injury would occur, and

(iii) In any case in which the leave has commenced, the employee elects not to return to work within a reasonable period of time after receiving such notice.

(9) The 12-Month FMLA period: The 12-month period during which an employee is entitled to 12 workweeks of FMLA leave begins on the first (1st) day of July and ends on the thirtieth (30th) day of June of each year. An eligible employee is entitled to 12 weeks of FMLA leave during each 12 month period. (1978 Code, § 1-843.1)

4-256. Procedure for requesting leave. For all leave other than official holiday, sick, and administrative emergency leave, a written request indicating the kind of leave, duration and dates of departure and return must be approved prior to the taking of leave. The request for leave should be submitted prior to beginning the leave. In the case of sick leave, the leave form shall be completed and submitted for approval immediately upon the employee's return to duty.

Unless an absence is substantiated by a leave form approved by the mayor or his designee, an employee shall not be paid for any absence from scheduled work hours. (1978 Code, § 1-844)

4-257. Retirement. (1) All employees hired after passage of this paragraph shall contribute the employee's share of the retirement contributed to the Tennessee Consolidated Retirement System and such contribution shall be deducted from employee's salary.

(2) All employees working for the City of Sparta who were working upon the entry of the city to the Tennessee Consolidated Retirement System shall contribute his/her proportionate share of the retirement pay for all money drawn on overtime from his/her work as employees of the City of Sparta, Tennessee. By way of explanation to this and the above paragraph, the City of
Sparta agreed to pay all retirement payments for those employees on payroll at the time of the entry by the City of Sparta into the Tennessee Consolidated Retirement System. This amendment will not affect the payment by the city of all retirement pay based on the regular payroll of the employees; however, on all overtime payments, the employee will contribute his share of the retirement payment on those amounts earned as overtime. (1978 Code, § 1-845, modified)

4-258. **Records.** The city recorder and department heads shall maintain an adequate record of their official acts under this chapter and the employment record of every employee. (1978 Code, § 1-846)

4-259. **Reports.** Department heads shall submit promptly data on proposed appointments, status changes or separations pertaining to the classified service at such time, in such form, and with such supporting information as these rules prescribed or as the mayor shall deem necessary. (1978 Code, § 1-847)

4-260. **Purpose and intended use of vehicles owned by City of Sparta.** It is the purpose of this and the following sections to establish a definite policy on use of all city vehicles. All vehicles owned by the City of Sparta are for use by city employees in performance of official duties. (1978 Code, § 1-849)

4-261. **Uses prohibited.** No vehicle will be used by any city employee or his personal use and no passengers will be carried in city vehicles except city employees. In the case of the police department, passengers such as prisoners and other persons deemed necessary in the line of special duties shall be permitted. (1978 Code, § 1-850)

4-262. **Permitted exceptions.** When the mayor and board of aldermen determine that it is essential that any employee retain a specific vehicle overnight or over a weekend or holiday, the board and/or mayor shall then authorize such after hour retention. In case of riots, disaster, emergencies, etc., the mayor shall then authorize retention of vehicles as the situation required. (1978 Code, § 1-851)

4-263. **Parking of vehicles.** All city owned vehicles when not being used for official use shall be parked in the lighted and patrolled parking area located at the city garage. Keys for all vehicles will be removed and secured in the garage office when vehicle is parked. (1978 Code, § 1-852)
4-264. **Drug policy** declared to ensure safe and efficient working environment. The City of Sparta has the responsibility to maintain a safe and efficient working environment. Employees who use drugs or who work while under the influence of drugs or alcohol present a safety hazard to themselves, to fellow employees, and to the public. Moreover, the use of drugs and alcohol by employees limits the city's ability to provide prompt and courteous municipal services and work with the highest amount of efficiency and safety. Accordingly, these sections are adopted to ensure that the City of Sparta continues to maintain its reputation as a quality employer and maintain the public trust and confidence by providing municipal services in a prompt, courteous, safe, and efficient manner. (1978 Code, § 1-853)

4-265. **Use of alcohol or non-prescription drugs prohibited.** Employees are prohibited, while on duty, on city property, or operating city equipment and vehicles, from being under the influence of alcohol or illegal non-prescription drugs. Moreover, employees may not possess, sell, solicit, or receive alcohol or illegal non-prescription drugs while on duty or on city property for reasons other than those which may be related to the duties of their employment. The violation of this policy is grounds for immediate termination. (1978 Code, § 1-854)

4-266. **Inspections permitted.** The city reserves the right to require employees, while on duty, or while on city property (including parking lots), to agree to inspections of their persons, vehicles, lockers and personal property. If an employee withholds consent to such an inspection, the city may discipline the employee, up to and including termination. (1978 Code, § 1-855)

4-267. **Drug testing.** The city reserves the right to conduct drug testing on:

1. An applicant for employment;
2. An employee applying for a promotion;
3. An employee who is requested to take a physical examination;
4. An employee who experiences decreased job performance, who is involved in an accident on the job, who experiences increased absenteeism or tardiness, or who otherwise reasonably gives an indication of alcohol or drug use;
5. An employee who returns to work after being away on leave or otherwise absent from work for a period of time of more than 30 days; or

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1Municipal code reference
Drug and alcohol testing policy: title 4, chapter 7.

2Municipal code reference
Drug and alcohol testing policy: title 4, chapter 7.
(6) Any employee in a safety sensitive or dangerous job on a random basis to ensure that this policy is being complied with by all employees. (1978 Code, § 1-856)

4-268. **Lab procedures.** All drug testing will be performed by a qualified laboratory. Test results will be the city's property and will remain confidential. If an employee tests positive for the use of alcohol or drugs, a confirmatory test will be given. If an employee also tests positive on the confirmatory test, the city may discipline the employee, up to and including termination. If an employee refuses to submit to a drug test when requested by the city, the city may discipline the employee, up to and including termination. (1978 Code, § 1-857)

4-269. **Purpose.** To provide guidelines for the administration of employee salaries, including starting pay rates, pay increases, promotional increases, and other salary adjustments.

(1) **Policy objectives.** This policy is intended to promote the following:
   (a) Ensure competitive pay practices to allow the City of Sparta to effectively compete in the market for the talent needed to meet and exceed its performance standards.
   (b) Ensure fair and unbiased treatment of employees relative to pay administration.
   (c) Ensure that the City of Sparta salary expense is consistent with taxpayers' expectations for reasonable labor costs.

(2) **Definitions.** For the purpose of, and as used in, title 4, chapter 2 of the Sparta City Code:
   (a) The term "eligible" shall mean qualified to receive, and shall not connote a right or entitlement to a sum, rate, benefit, position or compensation. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006, as amended by Ord. #09-839, Sept. 2009)

4-270. **Job descriptions.** A written job description is to be maintained for each position recognized by the City of Sparta. Job descriptions are to be written so as to meet the requirements of all applicable state and federal laws and regulations. Job descriptions are to be reviewed by incumbents and/or supervisors to ensure they are up to date. Supervisors are responsible for accurate, up-to-date, job documentation. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

4-271. **Pay grades and pay ranges.** (1) **Number of pay grades.** Pay is to be administered within twelve classifications, or pay grades.
   (2) **Pay steps.** Each pay grade will be assigned a series of pay steps. There will seven (7) pay steps for each pay grade.
(3) **Adjustment of pay steps.** The pay table will be reviewed on a biennial basis and will be adjusted if necessary to ensure that the city's pay practices remain competitive with changes in labor market conditions. As appropriate, this review will consist of:

- (a) Gathering comparative salary data for benchmark jobs from published sources or direct contacts with competing employers,
- (b) Comparing market salary data obtained for each benchmark job with the corresponding City of Sparta pay steps (step 4 should approximate the salary survey average for the benchmark jobs in any particular pay grade), and
- (c) If necessary, adjusting the City of Sparta pay ranges so that step 4 will approximate the market value for jobs in each pay grade.

(Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

4-272. **Assignment of jobs.** Each job is to be assigned to the pay grade for which the step 4 best matches the competitive market value for the job. Deviations may be made if strategic business considerations dictate that certain jobs (not employees) should be valued differently than their market value. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

4-273. **Rates of pay.**

1. **Starting rates.** New hires possessing the minimum level of skills, knowledge, and abilities required by a job are normally hired at step 1 for the job. Candidates with more relevant experience, more education, or higher skill level than normally required may be hired at step 2, 3 or 4 pending recommendation of the city administrator or utilities manager and provided written notice of such action is submitted to the mayor prior to final approval for hiring. The current pay rates, qualifications, and skill levels of existing job incumbents should be carefully considered before a new employee is hired at step 2 or above.

2. **Rates above the pay range.** Step 7 of each pay range is intended to serve as a guideline for management for the highest pay rate the City of Sparta will normally pay an employee for a particular job. Instead of annual step increases, employees paid at rates above step 7 are eligible only for lump sum payments.

3. **Rates below the minimum.** It is possible that employees' pay rates, probably for recent hires, will occasionally fall below step 1 upon adjustment of the pay table itself. Normally, the pay rates of such employees will be immediately adjusted to the new step 1 at the time the new pay table becomes effective. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

4-274. **Pay adjustments.**

1. **Step increases.**
   - (a) **Eligibility.** All regular full-time and part-time employees in good standing whose current pay rate is in step 6 or below are eligible for a pay increase on July 1st of each year provided the employee has been in their current step for at least six (6) months. Employees who have not been in their current step for at least six (6) months at July 1st will be advanced a step at such time as they do meet the six month criteria for step increases. Employees who have been placed on disciplinary status will not receive a step increase until such disciplinary action has been resolved.
(b) **Step increase amount.** The base pay rate of employees eligible to receive a step increase will be increased to the next step in their pay grade. An employee whose pay rate has advanced to step 7 is not eligible to receive any step increase.

(c) **Step increases--employees on leave of absence.** Scheduled step increases will be postponed for employees on approved medical or personal leave of absence until they return to work. Step increases will be postponed beyond the date of return to work in cases where such absence exceeds four months (will normally be postponed one additional month for every month of leave beyond four).

(d) **Merit increases--employees on light duty.** Employees in light duty positions are eligible for a step increase just like all other regular active employees.

(2) **Budgetary limitations.** An employee eligible for a step increase, merit increase or pay adjustment may receive such increase or adjustment only upon approval of the annual budget of the city each fiscal year by an amount or amounts allocated by payment of such increase, and based upon the reasonable projection or receipt of the revenues to be received by the city as budgeted. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006, as amended by Ord. #09-839, Sept. 2009)

**4-275. Pay structure adjustment increases.** The pay table for the City of Sparta may be adjusted periodically to keep pace with the labor market. Normally this adjustment will be effective July 1 or the beginning of the fiscal year. At the time any adjusted pay table is put into effect, the pay rates of all employees will be adjusted to the same corresponding step in the new pay table. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

**4-276. Lump sum payments--employees in step 7.** (1) **Eligibility.** An employee whose pay rate is in step 7 does not receive a step increase. Instead, he/she is eligible to receive a lump sum payment. To receive a lump sum payment:

(a) The employee must be on the City of Sparta payroll as of June 30th. Eligible employees who retire before June 30th will receive a prorated portion of the payment based on the portion of the year actively employed.

(b) The employee's job performance must be satisfactory, and

(c) The employee must not be subject to disciplinary action for violation of city policies as of June 30.

(2) **Lump sum amount.** The amount of the lump sum payment is calculated by multiplying the employee's total earnings for the 12 month period ending June 30th less any lump sum payments received during the prior year by the percent based on tenure indicated in Table 1. The percentage used to calculate the lump sum payment gradually increases based on years of service with the city.
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Years of service are to be based on the duration of continuous service with the City of Sparta calculated from the employee's date of hire to June 30. Continuous service is defined as being on the city's payroll. In the case of a break in service, the most recent hire date is to be used in calculating length of continuous service.

(3) **When paid.** The lump sum payment is to be paid with the first payroll in July of each year.

(4) **Tax withholding.** Lump sum payments will be subject to standard tax withholding.

(5) **Lump sum payments in lieu of step increases when calculated according to the provisions contained herein shall be limited to $2,000 per employee.**

(6) **Budgetary limitations.** An employee eligible for a lump sum payment will not be paid or will not be entitled to receive such lump sum unless it is included in the annual budget of the city for the year eligibility by allocation of the amount for such payment based upon the reasonable projection of revenues to be received by the city as budgeted and as received. (Ord. #98-710,)
4-277. **Promotional increases.** (1) Definition of promotion. Placement of an individual in a job which is in a pay grade that is higher than the individual's current pay grade will be considered a promotion. (Temporary job reassignments of less than six months will not normally be considered a promotion.)

(2) Increase amount. At the time of the promotion, the individual's salary is to be adjusted to reflect the increased demands and responsibility of the new position. Normally, the employee's pay rate will be increased to the step rate in the higher pay grade that represents at least a 5% increase over his/her current pay rate. (Exception for police officers and firefighters: individuals without prior (respectively) law enforcement or firefighting experience promoted to police officer or firefighter would start at step 1 even if this means a reduction in pay.) (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

4-278. **Temporary reassignment.** Adjustments to pay rates of employees assigned temporarily (for less than six months) to perform work of higher level jobs will be made at the discretion of management. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

4-279. **Lateral job reassignments.** Reassignment from one job to another in the same pay grade will be considered a lateral move. No immediate adjustment to pay will be made. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

4-280. **Demotions or reassignment to a lower pay grade.** Demotions occur when an employee is returned or transferred to a position in a lower pay grade. Additionally, employees may voluntarily ask to move to a job in a lower pay grade, perhaps through the job posting/bidding process. If an employee was promoted and subsequently returns to the original (lower) job, his/her pay rate would be adjusted to the step it would equal if the promotion had not occurred. Whether or not a reduction in pay should occur in other situations depends on consideration of the following:

(1) Was the demotion related to the employee's performance or to a reduction in force or organizational change?
(2) How will the employee's pay rate compare with pay rates of other incumbents in the lower graded job or similar jobs?
(3) How long has the employee been in the former job?
(4) Where will the employee's pay rate fall in the new (lower) pay range?
(5) What has been the city's past practice in similar situations?
It is often sound practice to reduce the employee's pay rate to be consistent with rates of pay of other incumbents in the new job who possess similar skills and tenure. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

4-281. **Re-classification of position.** Re-classification of a job may occur if warranted by significant changes in job responsibilities. Section 4-280 above would apply to re-classification of a job to a lower pay grade. For an employee whose job was re-classified to a higher pay grade, the employee's pay would be adjusted to the step in the new pay grade corresponding to the employee's step in the "old" pay grade, e.g., pay of an employee in step 2, grade 3 whose job is re-classified to pay grade 4 would be adjusted to step 2, pay grade 4.

Re-classification of a job to a higher pay grade normally would not result in any adjustment in pay unless the incumbent's pay rate is below the minimum of the new pay range. In such cases, the employee's pay rate is to be adjusted to step 1 of the new pay range. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

4-282. **Light duty assignments.** The pay rates of employees assigned light duty positions as part of a rehabilitation program will be reduced if the light duty jobs are in a lower pay grade than their regular jobs. The amount of the reduction is to be determined as in § 4-280 above. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)
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 PROGRAM

SECTION
4-401. Creation.
4-402. Purpose.
4-403. Coverage.
4-404. Standards authorized.
4-405. Variances from standards authorized.
4-406. Administration.
4-407. Funding the program.

4-401. Creation. This section shall provide authority for establishing and administering the occupational safety and health program for employees in all departments governed by the Board of Mayor and Aldermen of the City of Sparta. (1978 Code, § 1-901, as replaced by Ord. #03-769, Aug. 2003)

4-402. Purpose. The City of Sparta, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

(6) 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 existing or potential hazards; and
   (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

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

(8) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee 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.

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

(10) Consult with the State 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.

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

(12) 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. (1978 Code, § 1-902, as replaced by Ord. #03-769, Aug. 2003)

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

4-404. **Standards 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 5). (as added by Ord. #03-769, Aug. 2003)

4-405. **Variances from standards authorized.** The City of Sparta 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, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 5. Prior to requesting such temporary variance, the city administrator shall notify or serve notice to 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 as designated by the city administrator shall be deemed sufficient notice to employees. (as added by Ord. #03-769, Aug. 2003)

4-406. **Administration.** For the purposes of this chapter, the City Administrator for the City of Sparta is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the city's plan. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety
and Health Act of 1972 and Part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #03-769, Aug. 2003)

4-407. **Funding the program.** Sufficient funds for administering and staffing the program pursuant to this resolution shall be made available as authorized by the Sparta Board of Mayor and Aldermen. (as added by Ord. #03-769, Aug. 2003)
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 individual's 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 victim's 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 at 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. 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 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.
"Employee." An individual currently employed by the City of Sparta, Tennessee.

"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."

"FHWA." Federal Highway Administration.

"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.

"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.

"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.

"NHTSA." National Highway and Traffic Safety Administration.

"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.

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

"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.

"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