

## TITLE 4

### MUNICIPAL PERSONNEL

#### CHAPTER

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#### CHAPTER 1

### SOCIAL SECURITY

#### SECTION

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**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of this town to provide for all eligible employees and officials of the town, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations. (1989 Code, § 1-1101)

**4-102. Necessary agreements to be executed.** The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1989 Code, § 1-1102)

**4-103. Withholdings from salaries or wages.** Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1989 Code, § 1-1103)

**4-104. Appropriations for employer's contributions.** There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1989 Code, § 1-1104)

**4-105. Records and reports.** The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1989 Code, § 1-1105)

**4-106. Exemptions from coverage.** There is hereby exempted from this chapter any authority to make any agreement with respect to any position, any employee or official not authorized to be covered by applicable state and federal laws or regulations. (1989 Code, § 1-1106)

## CHAPTER 2

### PERSONNEL RULES AND REGULATIONS

#### SECTION

- 4-201. Personnel rules and regulations.
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- 4-205. Benefits.
- 4-206. Separations and disciplinary actions.
- 4-207. Miscellaneous personnel policies.
- 4-208. Education provision; contract required.

**4-201. Personnel rules and regulations.** (1) Purpose. The purpose of this chapter is to establish a system of personnel administration in the city/town of Oliver Springs, Tennessee that is based on merit and fitness. The system shall provide means to select, develop, and maintain an effective municipal work force through impartially applying personnel policies and procedures free of personal and political considerations and regardless of race, color, gender, age, creed, national origin, or disability.

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

- (a) Consultants, advisors, and legal counsel rendering temporary professional services;
- (b) City/town attorney;
- (c) Independent contractors;
- (d) People employed by the municipality for not more than three (3) months during a fiscal year;
- (e) Part time employees paid by the hour of the day are not considered regular;
- (f) Volunteer personnel appointed without compensation;

All employment positions of the municipal government not expressly exempt from coverage by the section shall be subject to the provisions of the city/town charter. (1989 Code, § 1-1201, as replaced by Ord. #02-08-06, Aug. 2002)

**4-202. Classes of employees.** (1) Regular full time. Regular full-time employees are individuals employed by the municipal government who work more than thirty-seven and one-half (37.5) hours per week and have completed a three (3) month probationary period. Regular full-time employees receive full

benefits unless specifically excluded by the city/town charter, code, or ordinances.

(2) Regular part time. Regular part-time employees are individuals who do not work on a daily basis and whose hours cannot exceed twenty-four (24) hours per week unless approved by department head. Regular part-time employees are excluded from all benefits afforded full-time employees.

(3) Temporary employee. A temporary employee is an individual who works for the city/town for no more than eighty-nine (89) days during one (1) calendar year. Temporary employees receive no benefits. (The city/town may wish to offer full time employment or continue temporary employment for another eighty-nine (89) days after review of town/city council.)

(4) Volunteer firefighters. Volunteer firefighters are appointed by the fire chief when necessary, after approval of town council. Volunteer firefighters are compensated per fire-call with no other benefits except coverage under the Volunteer Firefighters Insurance Coverage Policy.

(5) Police reserve. Reserve officers are appointed by the police chief with the approval of the town council . Reserve officers receive no compensation and no other benefits except coverage under the Special Reserve Police Insurance Coverage Policy. (1989 Code, § 1-1202, as replaced by Ord. #02-08-06, Aug. 2002)

**4-203. Hiring procedures.** (1) Policy statement. Pursuant to the charter of the city/town of Oliver Springs, Tennessee, the primary objective of this hiring policy is to ensure compliance with the law and to obtain qualified personnel to serve the citizens of the city/town. Appointments to positions are based on merit, technical knowledge, and work experience. No person shall be employed, promoted, demoted, discharged, or in any way favored or discriminated against because of race, gender, age, color, religion, creed, ancestry, disability, or national origin. Nothing in the personnel rules and regulations document shall be deemed to give employees any more property rights in their jobs than may already be given by the city/town charter. The city/town reserves the right to alter or change any or all of these rules without prior notice to employees.

(2) Recruitment. The city/town will employ only capable and responsible personnel who are of good character and reputation. When a vacancy occurs, the city administrator will prepare and post the appropriate position description at various locations in the city/town. The city administrator will also provide notice of vacancies in alternate media including taped messages, radio announcements, or other methods to ensure effective communication to people with disabilities.

(3) Application process. All people seeking appointment or employment with the city/town shall complete a standard application form as provided by the municipal government. Employment applications shall be accepted in the city administrator's or police chief's office, depending upon the

vacancy, during regular office hours only. The city administrator or police chief will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations.

(4) Interviews. All appointments are subject to an interview with the town council and appropriate department head. The town council will make reasonable accommodations in the interview process to applicants with disabilities making a request for such accommodations.

(5) Appointments. All appointments to positions in the city/town of Oliver Springs, Tennessee shall be made by the town council. Following a conditional offer of employment, every prospective employee, when required, may be given a medical examination and a general physical exam by a licensed physician designated by the municipal government to ensure they can perform the essential functions of the position they have been offered. The cost of this medical exam shall be borne by the city/town. Any prospective employee who is unable to successfully perform the essential functions tested for in the medical examination shall have the offer of employment by the city/town withdrawn only if they:

- (a) Cannot perform the essential functions due to a disability that cannot reasonably be accommodated;
- (b) Pose a direct threat to themselves and/or others;
- (c) Are unable to perform the essential functions due to a temporary condition or disability not protected by ADA.

(6) Citizenship and alien status verification. The city/town will not discriminate on the basis of a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the city/town will not knowingly employ any person who is or becomes an unauthorized alien. In compliance with the Immigration Reform and Control Act, all employees hired after November 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three (3) days of employment or the individual will not be hired.

(7) Nepotism. No family member (spouse, parents, children, siblings, parents' in-law, brothers/sisters-in-law, grandparents, and guardians) of an existing employee or an elected official may ever work within the same town department. Further it shall take a unanimous vote by council to hire any of the above. Employees hired prior to January 1st 2002 are exempt.

(8) Probation. Applicants appointed to positions with the city/town of Oliver Springs, Tennessee are required to serve a six (6) month probationary period. Full time employee benefits will begin after ninety (90) days. An evaluation will be done at ninety (90) days and then at the end of one hundred eighty (180) days. During this period, the employee's work performance will be subject to review regarding the competence of the employee to fill the position. An employee may be terminated during this period for any reason without respect or reference to the procedures set forth in this document, the charter, or

other ordinances. If the probationary period is satisfactory, the employee is recommended for a full-time appointment. The probationary period may be extended by the town council and mayor dependent upon recommendation of department head, when written notification is given to the probationary employee with reasons for the extension.

(9) Employee responsibility. (a) Before coming off probationary period all employees should have the knowledge and skills to move on to another job or assignment should the primary job be aborted for some reason. It is the duty of every employee to use their skills and abilities to preform a full days work for a full days pay.

(b) Every employee should know that the safety, health and well being of the residents of Oliver Springs depends on their timely and efficient completion of their job assignment. Any employee deliberately causing a work stoppage or slow down or causing others to do the same will be subject to disciplinary action up to and including dismissal.

(10) Transfers. The town council and mayor may make transfers of employees or delegate this authority if deemed advisable. A transfer may also be implemented as a reasonable accommodation when an employee is unable, due to a disability, to continue to perform the essential functions of the job.

(11) Promotions/demotions. The town council and mayor may make promotions/demotions of employees or delegate this authority if deemed advisable. A demotion may also be implemented as a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions of the job. (1989 Code, § 1-1203, as amended by Ord. #89-15-06D, \_\_\_\_\_, and Ord. #99-04-11, Nov. 1999, replaced by Ord. #02-08-06, Aug. 2002, and amended by Ord. #2018-06-21, June 2018 *Ch3\_2-7-19*)

**4-204. Compensation.** (1) Salaries. Pursuant to the city/town charter, the town council and mayor shall set all salaries paid by the city/town. Due consideration shall be given to duties performed, responsibilities, technical knowledge and skills required to perform the work satisfactorily, the labor market, and availability of people having the desired qualifications.

(2) Hours of work. The town council and mayor shall establish the hours of work per week for each position in the service of the city/town. Employees unavoidably late or absent from work due to illness or other cause must notify their supervisor within the time frame established by each department (unless unusual circumstances prevent the employee from making proper notification). Such employees must explain the reason for the absence and, if possible, an anticipated time and date of return to work. Failure to notify one's supervisor of absences may result in disciplinary action. Employees found falsifying time sheets will be subject to immediate dismissal. Excessive tardiness is regarded as sufficient reason for termination. Any employee found clocking another employee's time card, will be subject to immediate dismissal.

(3) FLSA requires that the employer pay for breaks of twenty (20) minutes or less, and for all breaks and lunch periods during which the employee must remain at the work station and/or perform some duties. Lunch breaks, however, when no services are required of the employee, can be unpaid. Your supervisor will choose the proper time and place for rest breaks. The Town of Oliver Springs chooses to use fifteen (15) minute breaks.

(4) Payday. All employees of the city/town of Oliver Springs, Tennessee shall be paid on a weekly basis. Police department employee's are paid bi-weekly. If you have questions about your work time, salary, or paycheck, call them to the attention of the department head or city finance officer within the pay period in question or immediately thereafter.

If you are absent on payday and wish to have someone else obtain your check for you, you may send your identification and a signed note authorizing the town to give your check to the bearer.

If you lose your check, notify your city finance officer immediately. You will be required to sign an affidavit that your check has been lost, and a new one will be issued. If you resign, your last check will be issued on the next regular payday. You should give written notice of where the check should be sent if you are not available to pick it up.

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

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

(c) Others. Other deductions (hospitalization, life insurance, deferred compensation payments, garnishments, credit union payments, etc.) may be made from an employee's pay only with a signed consent from the employee.

(6) Overtime. Employees required to work overtime shall be compensated in accordance with the FLSA at a rate of one one-half (1 1/2) the employee's regular pay rate. Department heads are not excluded from the overtime provisions of the city/town. Compensatory time off may be granted in lieu of overtime pay. Administration of the policy and accumulation of time shall also be in accordance with the FLSA.

(7) Call out time/flex time. Flex time can be taken off before end of pay period at the discretion of the department head. Emergency call outs are to be paid as two (2) hours auto pay. Required to clock in and out. If call out work is more than two (2) hours and forty (40) hours has been exceeded then conversion of overtime will apply. If call out last less than one (1) hour, and second call out

is required on same call, a second two (2) hours for call out does not apply. (1989 Code, § 1-1204, as amended by Ord. #95-01-06, June 1995, and replaced by Ord. #02-08-06, Aug. 2002)

**4-205. Benefits.** (1) Eligibility. All full-time employees are eligible for all benefits provided by the city/town.

(2) Sick leave. Hourly and salary employees

Hours Accrued Monthly	8.00
Hours Accrued Annually	96.00
Number of Days Accrued Annually	12

Sick leave shall be earned and credited to an employee at the rate of \_\_\_\_\_. Personal leave shall be earned by sworn police personnel at a rate of eight (8) hours per month. However, an employee is not eligible to earn sick leave credits until completion of three (3) months employment or completion of probationary period. Use of that sick leave earned can start after four (4) months. There is no limit to amount of sick leave that may be accumulated. Each employee shall submit a request for sick leave to his/her supervisor in advance for approval or immediately upon return to work after unexpected illness. Sick leave is taken in four (4) hour increments only. When sick leave credits are inadequate to cover absences due to illness, time off should be charged to leave without pay unless he/she uses vacation credits.

(3) Prior salaried personnel have a total of eighteen (18) months sick leave that can be taken in case of dire illness. This will be retained by prior salaried personnel. The new passage allows accrued leave to be cashed in at resignation or retirement if leave requirements are met, but not to exceed a maximum of two thousand (2,000) hours for salaried personnel. Prior salaried personnel may cash in their sick leave time according to the new passage with an allowance of thirty-six (36) days per year of service, not eighteen (18) months.

Sick leave incentive: the City/Town of Oliver Springs has a policy where as an employee retiring or presenting resignation with a minimum of two (2) years continuous service, and a minimum of one hundred (100) hours accrued sick leave, shall be paid for upon resignation at the following rates, provided the above two (2) stipulations have been met:

- 2 to 4 years completed service ..... 25% of accrued time.
- 5 to 10 year completed service ... 30% of accrued time
- 11 to 15 yrs completed service .. 35% of accrued time
- 16 to 20 yrs completed service ... 50% of accrued time
- 21 yrs or more completed ser ..... 75% of accrued time

FOR A MAXIMUM 1,000 HOURS

The percentage is based on continuous service, and needs to be included when possible in planning out the budget.

A doctor's statement clearing the employee to return to work shall be required for all major illnesses, injuries, surgery, or prolonged absences starting the second working day. Failure to furnish a doctor statement to justify the employee's use of sick leave when requested, or failure to provide a doctor's statement clearing an employee to return to work, shall be cause of disciplinary action up to and including dismissal.

Sick leave may be granted for:

- (a) Personal illness or physical incapacity resulting from causes beyond employee's control.
- (b) Exposure to contagious disease so that the employee's presence at work might jeopardize the health of others;
- (c) Medical, dental, optical, or other professional treatments or examinations and;
- (d) Acute illness of member of employee's immediate family.(i.e, spouse, parents, sibling, children, in-laws, grandparents.
- (e) Employee can not at any time borrow against any future sick time not yet earned.
- (f) Must give at least one (1) hour notice to supervisor prior to shift start time.

Compensatory leave shall be granted at the request of the employee within a reasonable time of the request unless the operations of the department would be unduly disrupted by the employee's absence. Compensatory leave shall be used before personal leave.

(4) Holidays. Full-time employees are allowed a day off with pay on the following eleven (11) holidays:

- |                            |                                  |
|----------------------------|----------------------------------|
| (a) New Year's Day         | January 1                        |
| (b) Martin Luther King Day | Third Monday in January          |
| (c) Good Friday            | Friday before Easter Sunday      |
| (d) Memorial Day           | Last Monday in May               |
| (e) Independence Day       | July 4th                         |
| (f) Labor Day              | First Monday in September        |
| (g) Veterans Day           | November 11th observed on Monday |
| (h) Thanksgiving           | 4th Thursday in November         |
| (i) Day after Thanksgiving | 4th Friday in November           |
| (j) Christmas Eve          | 24th of December                 |
| (k) Christmas Day          | 25th of December                 |

If a holiday falls on Sunday, it will be observed on the following Monday. If the holiday falls on Saturday, it will be observed on the preceding Friday. To receive compensation for the holiday, employees must be in a pay status on the workday before and on the workday after the holiday unless otherwise excused by the supervisor. If called out time and a half will not start until physical forty (40)

hours has been exceeded. This applies to Monday through Friday scheduled workers.

(5) Holiday pay. For workers that are not just Monday through Friday (shift worker that cover weekends) police department personnel shall receive holiday pay in the form of an additional twelve (12) hours pay for each of the above holidays whether on duty or not. Employees eligible for holiday pay must be in a pay status their last regular shift before a holiday and their first regularly scheduled shift after a holiday in order to receive compensation for the holiday. This will be received in the form of a once a year payment. If after proper notice is given and a person resigns, the already worked holidays will be allocated on final paycheck. Waste water and water treatment personnel will receive an additional eight (8) hours pay for the holidays following the same guidelines as stated above, unless for some reason they shut down and buy water from ACUB, then the payroll clerk is to be notified and a list given to the clerk as to who is to receive holiday on regular payday.

(6) Vacation leave--annual leave. All full-time employees who have worked for the municipal government for at least one (1) year (twelve (12) months) shall be given five (5) days of vacation leave with pay credited on their anniversary date of hire. Such vacation leave shall be taken at a time approved by the department head or such other officer as designated. Upon separation, employees are entitled to be reimbursed for any unused vacation; after proper notice of resignation.

On increasing of annual leave days will be in accordance with the number of years worked as follows:

Regular Full-time Employees (40 Hours)

Years of Service	Days Earned per year	Hours Earned per year
1 completed	5 days	40 hours
2-4 completed	10 days	80 hours
5-10 completed	15 days	120 hours
over 10	20 days	180 hours

Annual leave, so far as practical, will be granted at the time desired by employees, but annual leave in each department must be scheduled to assure orderly operation and adequate, continuous service to the public. Department heads must plan with employees in their department an orderly annual leave schedule. Holidays, as defined above, shall not be counted as annual leave days.

(7) Shared vacation leave (totally voluntary). The purpose of shared vacation leave is to permit city/town employees, at no additional cost to the city/town other than the administrative costs of administering the program, to come to the aid of a fellow city/town employee who:

(a) Has been called to active duty (not including regular summer duty) to serve in the armed forces; or

(b) Is suffering from or has an immediate family member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the employee to take leave without pay or to terminate his or her employment.

A department head may permit an employee to receive shared vacation leave under this policy in cases of employee illness when the employee has depleted or will shortly deplete his/her total of accrued vacation, sick leave, compensatory time, holiday time, and/or other paid leave.

Prior to the use of shared vacation leave, the employee must have abided by the city/town's sick leave policy. The use of shared vacation leave will not significantly increase the city/town's costs, except for those costs that would otherwise be incurred in the administration of this program or that would otherwise be incurred by the employee's department.

The department head shall determine the amount of shared vacation leave, if any, an employee may receive under this policy. The employee shall be required to provide appropriate military orders of activation or medical justification and documentation, both of the necessity for the leave and the time that the employee can reasonably be expected to be absent due to the condition.

An employee shall not receive more than a total of one thousand forty (1,040) hours of shared vacation leave throughout the employee's employment. To the extent possible, shared vacation leave should be used on a consecutive basis. Employees may request their department head to approve the transfer of a specified amount of accrued vacation leave to an employee who is authorized to receive shared vacation leave as provided herein.

In order to be eligible to donate vacation leave, an employee must have a total of more than eighty (80) hours of accrued vacation leave, have taken at least eighty (80) hours of vacation leave within the calendar year, or have a total of accrued and used vacation leave of greater than eighty (80) hours for the calendar year. In no event shall a transfer of leave be approved that would result in an employee reducing his or her total vacation leave in a calendar year to less than eighty (80) hours. The department head shall not transfer vacation leave in excess of the amount specified in the request. All donations of leave shall be voluntary. The department head shall determine that no significant increase in city/town costs will occur as a result of a donation of leave.

Leave may be transferred from employee(s) from one department to an employee of the same department, or with the concurrence of both department heads, to an employee of another department.

While an employee is on shared vacation leave, he/she will continue to be classified as a city/town employee and shall receive the same treatment, in respect to salary and benefits, as the employee would otherwise receive if using vacation leave.

(c) All salary benefit payments made to the employee on a shared vacation leave shall be made by the department employing the person using the shared vacation leave.

(d) The employee's salary rate shall not change as a result of being on shared vacation leave, nor under any circumstances shall the total of the employee's salary and other benefits or any other benefit received as a result of payments by the city to an insurer, health care provider, or pension system exceed the total of salary and benefits that the employee would have received had he/she been in a regular pay status.

Vacation leave shall be transferred on an hour-for-hour basis. The minimum allowable transfer of vacation leave shall be in four (4) hour increments.

The personnel office shall be responsible for monitoring the donated leave and shared vacation leave and shall also be responsible for adjusting the accrued leave balances to show the transferred leave for both the donor and recipient. The finance office shall determine the appropriate fund transfers and budget amendments as needed for board of aldermen action. Records of all leave time transferred shall be maintained.

Once vacation leave is transferred to an employee, that vacation shall henceforth remain in the employee's accrual until exhausted and shall not revert back to the original donor employee.

The personnel office shall monitor the use of shared vacation leave to insure equivalent treatment for all employees of the city/town. Inappropriate use or treatment of the shared vacation leave provision may result in the cancellation of the donated leave or use of shared vacation leave.

The city/town in its sole discretion may cancel this program at any time, with or without notice.

(8) Family and medical leave policy. (a) Purpose: To provide a family and medical leave policy in compliance with Public Law 103-3, titled Family and Medical Leave Act (FMLA) of 1993.

(b) Guidelines: An eligible employee may take up to twelve (12) weeks of unpaid leave (paid leave) in a twelve (12) month period for the birth and care of a child or the placement and care of a child for adoption or foster care. (Note - Under the Tennessee Maternity Leave Act (TMLA), a female employee may take an additional four (4) weeks of unpaid leave if the three (3) month advance notice has been complied with.) Leave may also be taken to care for the employee, a child, spouse, or a parent who has a serious health condition. The right to take leave applies equally to male and female employees who are eligible.

Unpaid leave to care for a newborn child or a newly placed adopted or foster care child must be taken before the end of the first twelve (12) months following the date of birth or placement.

An expectant mother may take unpaid medical leave upon the birth of the child, or prior to the birth of the 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 required for the placement to proceed.

An employee may take unpaid leave to care for a parent or spouse of any age who, because of a serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or parent of any age who is unable to care for his/her own basic hygiene, nutritional needs, or safety. Examples include a parent or spouse whose daily living activities are impaired by such conditions as Alzheimer's disease, stroke, recovering from major surgery, or the final stages of terminal illness.

Eligible employees who are unable to perform the functions of their position because of a serious health condition may request up to twelve (12) weeks unpaid leave (paid leave). The term "serious health condition" covers conditions or illnesses that affect an employee's health to the extent that he/she must be absent from work on a recurring basis or for more than a few days for treatment or recovery.

Employees requesting medical leave due to their own illness or injury may use any balance of sick leave, annual leave, or floating holidays prior to the beginning of unpaid leave. (The employer can require the use of available paid leave.) The combination of sick leave, annual leave, floating holidays, and unpaid leave may not exceed twelve (12) weeks. Employees requesting family leave may use unpaid leave. (Employer could require other paid leave to be taken first.) The combination of annual leave, floating holidays, and unpaid leave may not exceed twelve (12) weeks.

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

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

(c) Right to return to work: On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave commence, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his/her position has been restructured to accommodate the employee's absence.

If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employer's obligations may be governed by the American with Disabilities Act.

(d) Notification and scheduling: An eligible employee must provide the employer at least thirty (30) days of advance notice of the need for leave for birth, adoption, or planned medical treatment, when the need for leave is foreseeable. This thirty (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.

People who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this thirty (30) day notice. It is the city/town's responsibility to designate leave in writing as FMLA leave and to notify the employee. Employees may not retroactively claim that (paid/unpaid) leave was for FMLA.

The employer will provide the FMLA leave notice in alternate formats.

(e) Certification: The employer reserves the right to verify an employee's request for family/medical leave. 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 or 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 opinion will be final and binding.

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.

Medical certifications given will be treated as confidential and privileged information. An employee will be required to report periodically to the employer the status and the intention of the employee to return to work.

Employees who have taken unpaid leave under this policy must furnish the employer with a medical certification from the employee's

health care provider at the employees expense, stating that the employee is able to resume work before return is granted.

(f) Maintenance of health and COBRA benefits during unpaid leave: 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/ premiums or other payroll deductible insurance policies must be paid by the employee or the benefits may not be continued.

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 the recapture provision.

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

(g) Reduced and intermittent leave: Leave under this policy can be taken intermittently or on a reduced leave schedule when medically necessary as certified by the health care provider. Intermittent or reduced leave schedules for routine care of a new child can be taken only with approval of the (mayor/department head/governing body). The schedule must be mutually agreed upon by the employee and the employer.

Employees on intermittent or reduced leave schedules may be temporarily transferred by the employer to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.

Intermittent or reduced leave may be spread over a period of time longer than twelve (12) weeks, but will not exceed the equivalent of twelve (12) workweeks in a twelve (12) month period.

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

(i) The employer 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.)

Employees voluntarily accepting a light duty assignment in lieu of continuing FMLA leave maintain their right to restoration to the original or an equivalent job until the twelve (12) weeks of FMLA leave has passed.

(i) The twelve (12) month FMLA period: The twelve (12) month period during which an employee is entitled to twelve (12) workweeks of FMLA leave is measured forward from the date the employee's first FMLA leave begins. An employee is entitled to twelve (12) weeks of leave during the twelve (12) month period after the leave begins. The next twelve (12) month period will begin the first time the employee requests FMLA leave after the completion of the previous twelve (12) month period. (The employer may choose as the twelve (12) month period either the calendar year, a fixed twelve (12) month period, or the twelve (12) month period counted backward from the date of leave.)

(k) Denial of FMLA leave: If an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, the employer may delay the taking of FMLA leave until thirty (30) days after the date the employee provides notice to the employer of the need for FMLA leave.

If an employee fails to provide in a timely manner a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, an employer may delay continuation of FMLA leave until an employee submits the certificate. If the employee never produces the certification, the leave is not FMLA leave.

If an employee fails to provide a requested fitness-for-duty certification to return to work, an employer may delay restoration until the employee submits the certificates.

(9) Funeral/bereavement leave. Full-time employees shall be allowed three (3) days of leave with pay for the death in an employee's immediate family. Immediate family shall include spouse, parents, children, siblings, in-laws, grandparents, and guardians. Employees wishing to attend services of non-relatives must use annual leave for this purpose.

(10) Civil leave. Civil leave with pay may be granted to employees to:

- (a) Serve on jury duty,
- (b) Answer a subpoena to testify for the city/town, and/or
- (c) Perform emergency duty for national defense.

Employees selected for civil service shall be excused for the actual durations of the civil service. Upon release from civil duty during the employee's normal

working hours, he/she is expected to return to duty. Employees will receive full pay during such service. These benefits apply to full time employees.

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

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

(12) Military leave. Any regular employee who has completed six (6) months of satisfactory employment and who enters the U.S. armed forces will be placed on military leave. The department head shall approve military leave without pay when the employee presents his/her official orders.

The employee will be reinstated to a position in the current classification plan at least equivalent to his/her former position. His/her salary will be the salary provided under the position classification and compensation plan prevailing at the time of reinstatement or re-employment for the position to which he/she is assigned. If no position is available at the time of the employee's return, the employee will be reinstated into the first available position. No current full-time employee will be terminated or laid off to allow for the reinstatement.

Any regular full-time employee who is a member of the U.S. Army Reserve, Navy Reserve, Air Force Reserve, Marine Reserve, or any of the armed forces will be granted military leave for any field training or active duty required (excluding extended active duty). Such leave will be granted upon presentation of the employee's official order to his/her jurisdictional official. Compensation for such leave will be paid pursuant to Tennessee Code Annotated, § 8-33-109.

It will be the employee's responsibility to arrange with the department supervisor to attend monthly meetings on regular off-time, with pay being applicable to the annual two (2) week training period. Employees entering an extended active duty will be given fifteen (15) days pay when placed on military leave.

(13) Death of an employee. Upon the death of a full-time regular employee, his/her beneficiary will receive his/her next due payroll check, pay for accrued vacation time, (plus an additional two weeks full pay). Further, his/her beneficiary shall be given complete assistance by the finance officer in settling pension, life, and hospital insurance benefits.

(14) Retirement system. Employees of the city/town of Oliver Springs will be eligible for retirement benefits under the Tennessee Consolidated Retirement System (Mandatory enrollment for full-time employees)

(15) Insurance coverage. The city/town of Oliver Springs provides basic health and life insurance coverage through various carriers. Should circumstances dictate terminating benefits, the city/town will offer employees and their dependents the opportunity to extend their health insurance coverage under COBRA.

(16) Workers' compensation. All injuries arising out of and in the course of one's employment shall be governed by the Tennessee workers' compensation law. Employees on occupational disability leave shall receive only those benefits due under workers' compensation.

In all cases of occupational disability, the responsibility of determining the character, degree, and potential duration of an injury shall rest with the licensed, practicing medical doctor(s) designated by the TML workers' compensation policy. The medical doctor(s) may make periodic examinations, progress reports, and recommendations as deemed necessary by the governing body.

When an employee is injured on the job, the supervisor or department head shall immediately notify the city administrator who shall submit an accident report to the TML insurance office and governing body plus retain a copy in the safety file. Where an accident causes serious bodily injury or death to an employee, the supervisor shall immediately notify the city administrator who shall notify the family and the governing body.

All injuries arising out of and in the course of one's employment shall be governed by the Tennessee Workers' Compensation Law.

Employees on occupational disability leave due to an on-the-job injury will not be charged sick leave during the period of convalescence. They will not be charged vacation leave either unless they have chosen to supplement the workers' compensation benefits with vacation leave. Employees shall continue to accrue sick leave and vacation leave at their regular rate while on occupational disability or injury leave. Up to the one hundred sixty-five (165) days covered by ADA.

In all cases of occupational disability, the responsibility of determining the character, degree and potential duration of an injury shall rest with one of the panel of three (3) licensed, practicing medical doctors designated by the TML workers compensation policy. The medical doctor(s) may make periodic examinations, progress reports and recommendations as deemed necessary by the governing body.

Before an employee is returned to full duty, the employee must be certified by the attending physician as capable of performing the essential functions of the job. The physician will be furnished a copy of the job description, a list of the essential job functions as determined by the department head, and a form listing the required capabilities. The attending physician must complete the form provided by the city administrator documenting the employee's ability to perform the essential job functions. The city/town reserves the right to obtain a second medical opinion from the physician of its choosing before a final decision is made on a return to light or full duty.

If an employee is unable to return to the position held at the time of the injury, the governing body shall take reasonable steps to place the individual in a comparable position, if one is available, for which he/she is qualified and able to perform the essential functions, with or without a reasonable accommodations.

Should an employee be unable to return to full duty within one hundred sixty five days (165) after the date of injury, and no comparable position for which the employee is qualified is available, the employee may be subject to separation only if:

(a) He/she cannot perform the essential functions of the job due to a disability that cannot be reasonably accommodated; or

(b) The employee poses a direct threat to himself/herself or others.

(17) Other benefits. The city/town of Oliver Springs provides uniforms for police, fire, public works, and utility department employees. (1989 Code, § 1-1205, as replaced by Ord. #02-08-06, Aug. 2002)

**4-206. Separations and disciplinary actions.** (1) Types of separations. All separations of employees from city/town positions shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, layoff, death, retirement, dismissal, and the inability to perform the essential job functions with or without a reasonable accommodation due to a disability. At the time of separation and prior to final payment, all records, assets, and other items of city/town property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation.

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

leave, etc. will be the same as any new employee beginning work for the first time.

(b) Layoff - The city administrator upon approval from the town council and mayor, may lay off an employee in the municipal government service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or other material changes in the duties or organization of the employee's position, or for related reasons that are outside the employer's control and that do not reflect discredit upon the employee's service. Temporary employees shall be laid off before probationary or regular employees, and based on performance reviews thereafter. The city administrator will review the employees work performance and past work record before making final decision as to which employee will be laid off. The decision must always be in the best interest of the city.

(c) Disability - An employee may be separated for disability when he/she cannot perform the essential functions of the job because of physical or mental impairment that cannot be accommodated without undue hardship or because the disability poses a direct threat to the health and safety of others. A reasonable accommodation may include transfer to a comparable position for which the individual is qualified. Action may be initiated by the employee or the municipality, but in all cases it must be supported by medical evidence acceptable to the governing body, and the disability must prevent the employee from performing the essential functions of the job. The municipal government may require an examination at its expense to be performed by a licensed physician of its choice.

(d) Retirement - Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate retirement system.

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

(f) Dismissal - just cause dismissals. The town council and mayor may dismiss an employee for just cause that is for the good of the city/town service. Reasons for dismissal may include, but shall not be limited to: misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records, sexual harassment, violation of any of the provisions of the charter, ordinances, or these rules. Certain offenses shall not require oral or written reprimand prior to dismissal.

When the decision to dismiss an employee has been reached, the employee shall be furnished an advance written notice containing the nature of the proposed action, the reasons therefore, and the right to

appeal the charges orally or in writing before the town council and mayor. The notice shall be furnished at least twenty-four (24) hours notice to the proposed effective date of the action, when possible. During this period, the employee may be retained on duty status, placed on leave, or suspended with or without pay at the discretion of the city administrator or police chief whichever applies to the position in question. If the employee fails to respond to the advance notice, the proposed action shall be effective on the date specified with no need for further action.

If the employee requests a hearing on the proposed action, the city administrator or police chief shall promptly set a date and time for the hearing before council. The town council shall consider all evidence presented before making a decision. The decision of the town council shall be final.

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

(a) Oral reprimand - Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary actions. The supervisor will place a memo in the employee's file stating the date of the oral reprimand, what was said to the employee, and the employee's response.

(b) 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 folder. The supervisor administering the reprimand shall advise the employee that the action is a written reprimand and emphasize the seriousness of the problem; cite previous corrective actions and/or informal discussions relating to the offense; identify the problem and/or explain the offense; inform the employee of the consequences of continued undesirable behavior; detail corrective actions and identify dates by which the corrective actions shall be taken.

At the conclusion of a conference with the employee, a copy of the written reprimand shall be placed in the employee's personnel folder. It

is recommended that the affected employee sign the written reprimand to indicate that he/she has seen the document and to acknowledge receipt of the employee's copy. Should the employee refuse to sign the written reprimand, the supervisor will obtain a witness to sign and date the form and so indicate the employee's refusal to sign.

(c) Suspension - An employee may be suspended with or without pay by his/her department head for a period up to thirty (30) days pending action of the mayor and town council, in any twelve (12) month period. Pursuant to the appeals procedures, a written statement of the reason for suspension shall be submitted to the employee affected prior to the effective date of suspension. This is providing that, during the advance notice period, the employee may be retained in active duty status, placed on leave, or suspended with or without pay at the discretion of the city administrator or police chief per position affected. The employee will be granted a hearing before the mayor and town council upon request. An employee determined to be innocent of the charges shall be returned to duty with full pay for the period of suspension. All records associated with a suspension shall become a permanent part of the employee's personnel file. Under certain circumstances an employee may be suspended without notice, if in the best interest of the city/town.

(3) Grievance policy. The purpose of this policy is to set forth the principles of the city/town of Oliver Springs and to prescribe uniform disposition procedures of grievances presented by individual employees. A grievance can be something real, alleged, or a misunderstanding concerning rules and regulations or administrative orders involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, transfer, layoff, recall, and any other related items.

Employees must remember that there is no grievance until the department head or other appropriate person has been made aware of the dissatisfaction. Once this is done, the following steps are to be taken:

Step 1. The employee shall within five (5) working days from the date of occurrence of alleged grievance, submit in writing to his/her department head, a complete statement of what he/she feels the grievance to be and the relief requested.

Step 2. The department head shall then make a decision in writing within five (5) working days after receipt of written alleged grievance. Copies of alleged grievance and answer shall be provided to the mayor and town council by the city administrator. The alleged grievance may be resolved at any step by mutual concurrence of both parties. Notations of

action taken to mayor and council and put in permanent file. If the answer does not resolve the problem next step is taken.

Step 3. The alleged grievance is presented to town council and mayor for a hearing. City administrator, police chief or anyone else involved may be requested to attend. Request coming from council or grieving party. The hearing must be held within ten (10) days of date requested in writing by the employee. This will be a hearing not a trial, and the findings and decision of the council will be final.

(4) Appeals procedures. An appeal is an action by an employee to respond to and express dissatisfaction with a specific action taken by the town council or it's department heads.

Action subject to appeal procedures include:

- (a) Demotion
- (b) Suspension
- (c) Termination

(1989 Code, § 1-1206, as replaced by Ord. #02-08-06, Aug. 2002)

**4-207. Miscellaneous personnel policies.** (1) Outside employment. No full-time employee of the city/town shall accept any outside employment without written authorization from the city administrator, or police chief (depending on department). The city administrator, or police chief (depending on the department) shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the employee's duties, or is incompatible with the employee's municipal employment, or is likely to discredit or embarrass the municipal government. Approval to work a second job may be withdrawn for any of the reasons above.

(2) Use of municipal time, facilities, etc. No employee of the city/town of Oliver Springs shall use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other private person or group. This includes taking a city vehicle outside city limits for personal reasons without authorization.

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

(a) In elections for municipal offices - No municipal government employee, whether on or off duty, whether in or out of uniform, and whether on or off city /town property, shall at any time or any place:

- (i) Become a candidate for or campaign for an elective municipal government office;

(ii) Directly or indirectly solicit, receive, collect, handle, disburse, or account for assessments, contributions, or other funds for a candidate for municipal government;

(iii) Organize, sell tickets to, promote, or actively participate in a fund-raising activity of a candidate for municipal government office;

(iv) Take an active part in managing the political campaign for a candidate for municipal government office;

(v) Solicit votes in support of or in opposition to a candidate for municipal government office;

(vi) Act as a clerk, watcher, challenger, or similar officer at the polls on behalf of a candidate for municipal government office;

(vii) Drive voters to the polls on behalf of a candidate for municipal government office;

(viii) Endorse or oppose a candidate for municipal government office in a political advertisement, broadcast, campaign literature, or similar material;

(ix) Address a rally or similar gathering of the supporters of opponents of a candidate for municipal government office;

(x) Initiate or circulate a nominating petition for a candidate for municipal government office;

(xi) Wear campaign buttons, pins, hats, or other similar attachment, or distribute campaign literature in supporting or opposing a candidate for city/town office.

(b) In all other elections for public office - Municipal government employee shall enjoy the same rights of other citizens of Tennessee to be a candidate for any county, state, or federal political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. The city/town of Oliver Springs is not required to pay the employee's salary for work not performed for the municipality.

(Note - Tennessee Code Annotated, § 38-8-350 prohibits law enforcement officers from engaging in political activities, supporting or opposing any candidate, party, or measure in any election when on duty or acting in such officer's official capacity.)

(4) Solicitation. The city/town believes that its employees should not be exposed to frequent solicitations for charitable purposes. Therefore, solicitation shall be limited to as few visits as necessary during the course of the year. Any solicitation of employees must be approved by the mayor and/or city administrator.

(5) Personal telephone calls. Using the office telephone during regular work hours for local and/or long-distance personal calls, except in emergency cases, is discouraged.

(6) Fighting, horseplay, damaging municipal government property. Fighting, horseplay, and intentionally defacing or damaging city/town property is not permitted. Employees engaging in these activities will be subject to disciplinary action that could include discharge.

(7) Parking. Parking is generally provided for municipal government employees. Employees working in congested areas where parking is scarce should try to pool their transportation. The municipality does not assume responsibility for loss or damage any time to employee vehicles or their contents.

(8) Lockers. Lockers are the property of the municipality and may be inspected at any time without notice as there may be no expectation of privacy in such property. Employee-assigned lockers (that are locked by the employee) are also subject to inspection after reasonable advance notice, unless such notice is waived by the governing body.

(9) Bulletin boards. At numerous locations, the city/town maintains bulletin boards on which important information connected with an employee's work is posted from time to time. Cooperation is needed in protecting the posted material. All material to be placed on the bulletin boards must be approved by the appropriate supervisor before it is posted.

(10) Lost and found articles. The city secretary shall act as a clearinghouse for lost and found personal property. Lost articles should be turned in and/or reported as soon as possible.

(11) Trip reimbursement. All trips that involve reimbursement and/or municipal government expense shall not be undertaken without prior approval of the mayor and town council. Mileage shall be reimbursed at a rate of the current federal rate per mile. (Supplied through MTAS.) Food reimbursement shall be at a rate of (variable rate supplied through MTAS) per day. For details regarding travel, obtain a copy of the municipal government's travel policy from the city administrator or finance officer.

(12) Use of city/town vehicles and equipment. All city/town vehicles and equipment are for official use only. No person other than a city/town employee may operate a city/town vehicle or piece of machinery. Drivers and/or operators must have a valid Tennessee driver's license and be approved by the department head. A copy of driver's license is to be in his/her personnel file.

(13) Repeal of ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

(14) Severability. Each section, subsection, paragraph, sentence, and clause of this chapter is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause shall not affect the validity of any other portion of this chapter, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted herein.

(15) Performance reviews. All employees will be reviewed on the progress of their work. Reviews are conducted at the end of the first ninety (90) days of employment, and annually thereafter.

(16) W-4 forms. All new employees must complete a W-4 form indicating how many exemptions they wish to declare for income tax purposes. A new W-4 form will need to be filled out every January 1st to coincide with that year. Any changes in status during the year will need additional form signed by employee to authorize changes. Form should be submitted to finance office.

An I-9 form will be submitted and signed at hiring, along with copy of driver's license and social security card, to prove you are legal to work in the United States.

(17) Code of conduct. All employees are expected to understand that they are public service employees, and to conduct themselves in accordance with the following requirements:

(a) Employee shall in no way act in any manner which may discredit the city/town of Oliver Springs, public officials, fellow employees, or themselves.

(b) Employees shall avoid conduct and speech that is subversive to good order and discipline. They shall treat each other with the upmost courtesy, respect, and at all times refrain from making derogatory or demeaning remarks directed to another employee.

(c) Employees shall direct and coordinate their efforts to maintain highest level of efficiency, morale, and achievement.

(d) Employees shall conduct themselves in a manner to promote harmony among the various units of the town.

(e) Each employee is responsible for knowing the town's policies and for abiding by them at all times that they are in uniform and /or on duty.

(18) Sexual harassment. Sexual harassment is a violation of Title VII of the Civil Right's Act of 1964, and is expressly prohibited by the town. Employees have the right to circumvent chain of command in selecting the person to whom to make a complaint of sexual harassment. Complaints may be made orally or in writing to employees immediate supervisor, department head, city administrator or the mayor.

\*\*\*\*NOTE\*\*\*\*

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

(a) Definition. Sexual harassment or unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises

in return for submission to sexual favors; making inappropriate sex-oriented comments on appearance; telling embarrassing sex-oriented stories; displaying sexually explicit or pornographic material, no matter how it is displayed; or sexual assault on the job by supervisors, fellow employees, or on occasion, non-employees when any of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracting, or unreasonably interferes with work performance is an unlawful employment practice and is absolutely prohibited by the city.

(b) Making sexual harassment complaints. The municipality may be held liable for the actions of all employees with regard to sexual harassment and therefore, will not tolerate the sexual harassment of its employees. The city will take immediate, positive steps to stop it when it occurs.

By law, the city is responsible for acts of sexual harassment in the work-place where the city (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the city took immediate and appropriate corrective action. The municipality may also be responsible for the acts of non-employees, with respect to the sexual harassment to employees in the work-place, where the municipal government (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

(i) Prevention is the best tool for the elimination of sexual harassment. Therefore, the following rules shall be strictly enforced. An employee who feels he/she is being subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

- (A) The employee's immediate supervisor,
- (B) The employee's department head,
- (C) The city manager,
- (D) The mayor.

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

- (A) Official's or employee's name, department, and position title;
- (B) The name of the person or persons committing the sexual harassment, including their title(s), if known;
- (C) The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire,

transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;

(D) Witnesses to the harassment;

(E) Whether the employee has previously reported the harassment and, if so, when and to whom.

(c) Reporting and investigation of sexual harassment complaints. Upon notification of a complaint, the city manager shall designate an individual to be the investigator of the complaint of sexual harassment against an employee. In the event the sexual harassment complaint is against the city manager, the investigator shall be appointed by the mayor.

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

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contacted by the investigator in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

Upon conclusion of the investigation, the investigator shall prepare a report of the findings and present them to the city manager or the mayor if the complaint is against the city manager, whichever is appropriate according to the preceding paragraph. The report shall include the written statement for the person complaining of sexual harassment, the written statement of witnesses, the written statement of the person against whom the complaint of sexual harassment was made, and all the investigator's notes connected to the investigation.

(d) Action on complaint of sexual harassment. Upon receipt of a report of the investigation of a complaint of sexual harassment, the city manager, or the mayor if the complaint is against the city manager, shall immediately review the report. If the city manager, or mayor, if the complaint is against the city manager, determines that the report is not complete in some respect, he/she may question the person complaining of sexual harassment, the person against whom the complaint has been made, witnesses to the conduct in question or any other person who may have knowledge about the harassment.

Based upon the report and his/her own investigation, where one is made, the city manager, or the mayor if the complaint is against the city manager, shall within a reasonable time, determine whether the conduct

of the person against whom a complaint of harassment has been made constitutes sexual harassment. In making that determination, he/she shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining. The determination of whether sexual harassment occurred will be made on a case-by-case basis.

If the city manager, or the mayor if the complaint is against the city manager, determines that the complaint of harassment is founded, he/she shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment, consistent with his authority under the municipal charter, ordinances or rules governing his authority to discipline employees.

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

A written record of disciplinary actions taken shall be kept, including verbal reprimands. In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint of sexual harassment, witnesses or any person collected with the investigation of the complaint of sexual harassment.

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

(d) **Obligation of the employee.** Employees are not only encouraged to report instances of sexual harassment, they are obligated to report them. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not necessarily limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully making written reports or verbally answering questions when required to do so by an investigator. Employees are also obligated to refrain from making bad faith accusations of sexual harassment.

Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to

cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.

Complaint is to be investigated by city administrator or mayor may designate another investigator. The procedure then falls in line with grievance procedure hearing. (1989 Code, § 1-1207, as replaced by Ord. #02-08-06, Aug. 2002)

**4-208. Education provision; contract required.** In the event the town council decides to pay for additional formal education and training for an employee to receive a license or a diploma that is to be used by the employee during his employment with the town, with said license or diploma allowing the employee to become an operator or supervisor, or otherwise enhancing the employment of the employee with the town, the town council may require the employee to sign a written employment contract that the employee will remain employed with the town for a period of time of two (2) years from the date that the employee receives the license, diploma, or other certification; and that if the employee leaves the employment of the town within this two (2) year time period, the employee shall reimburse the town on a prorated monthly basis, for the cost and expense of the town for this additional education, training, or certification. (as added by Ord. #2015-7-5B, May 2015)

## CHAPTER 3

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### SECTION

- 4-301. Title.
- 4-302. Purpose.
- 4-303. Coverage.
- 4-304. Standards authorized.
- 4-305. Variances from standards authorized.
- 4-306. Administration.
- 4-307. Funding the program.

**4-301. Title.** This chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of the Town of Oliver Springs. (1989 Code, § 1-1301, as replaced by Ord. #2017-06-01, June 2017 *Ch3\_2-7-19*)

**4-302. Purpose.** The Town of Oliver Springs in electing to update the established Program Plan will maintain an effective and comprehensive Occupational Safety and Health Program Plan for its employees and shall:

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

- (a) Top management commitment and employee involvement;
- (b) Continually analyze the worksite to identify all hazards and potential hazards;
- (c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and
- (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

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

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

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (1989 Code, § 1-1302, as replaced by Ord. #2017-06-01, June 2017 *Ch3\_2-7-19*)

**4-303. Coverage.** The provisions of the Occupational Safety and Health Program Plan for the employees of the Town of Oliver Springs shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1989 Code, § 1-1303, as replaced by Ord. #2017-06-01, June 2017 *Ch3\_2-7-19*)

**4-304. Standards authorized.** The occupational safety and health standards adopted by the Town of Oliver Springs are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (1989 Code, § 1-1304, as replaced by Ord. #2017-06-01, June 2017 *Ch3\_2-7-19*)

**4-305. Variances from standards authorized.** Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (as added by Ord. #2017-06-01, June 2017 *Ch3\_2-7-19*)

**4-306. Administration.** For the purposes of this chapter, the fire chief and police chief are designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and

Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR,  
CHAPTER 0800-01-05, as authorized by Tennessee Code Annotated, title 50.  
(as added by Ord. #2017-06-01, June 2017 **Ch3\_2-7-19**)

**4-307. Funding the program plan.** Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the Town of Oliver Springs. (as added by Ord. #2017-06-01, June 2017 **Ch3\_2-7-19**)

## CHAPTER 4

### TRAVEL REIMBURSEMENT REGULATIONS

#### SECTION

- 4-401. Travel authorization and procedures.
- 4-402. Mode of transportation.
- 4-403. Expense reimbursement.
- 4-404. Per diem rates for meals.
- 4-405. Expense reporting.
- 4-406. Modifications.

**4-401. Travel authorization and procedures.** Travel in excess of thirty (30) miles one (1) way may not be undertaken unless it is done in accordance with the following approval procedures:

(1) Department heads shall notify the town manager, police chief or mayor in advance when traveling out of town on official town business and provide the purpose and location of travel and period of time expected to be away from the town.

(2) Attendance at conferences, conventions and meetings shall be limited to the number of persons necessary to cover the meetings adequately. When traveling, town employees are expected to be conservative as good practices and circumstances permit. Approval to attend conferences, conventions, and meetings shall be made at least one (1) week prior to such meeting by the town manager, police chief or mayor.

(3) The administrative assistant shall make all travel reservations.

(4) Employees are expected to commence the return trip to the Town as soon as possible after conclusion of the business, provided that no employee will be required to travel between the hours of 10:00 P.M. and 7:00 A.M. (Ord. #93-05-08, Aug. 1993, as replaced by Ord. #05-02-17A, Feb. 2005, and Ord. #2017-03-02C, March 2017 *Ch3\_2-7-19*)

**4-402. Mode of transportation.** (1) Any travel by public conveyance must be approved in advance by the town manager, police chief or mayor and reimbursement shall be for the actual cost of fare.

(2) Town owned vehicles should be used on all trips subject to their availability and mechanical suitability for the distance involved. The town will pay the total cost of its vehicle operations and maintenance when used for approved travel.

(3) In cases where an employee chooses to utilize a mode of transportation for which the cost of travel is greater than another customary mode, the town shall reimburse the employee only the amount equal to the cost of the lesser expensive mode of transportation. Travel time, convenience to the

town and other unusual circumstances and conditions shall be considered in such instances.

(4) In traveling to and from airports and between hotels and meeting or conference sites, reasonable taxi fares will be allowed.

(5) All airline reservations shall be made through the town manager, police chief or mayor's office. Airfare will be limited to standard coach fare.

(6) Charges for automobile rental shall not be allowed unless specific authorization has been received in advance from the town manager, police chief or mayor. A rental will be approved only if no other mode of transportation is available to the employee, or if the rental cost is less than other modes of transportation cost.

(7) Employees driving personal vehicles on town business are expected to drive vehicles registered in their name. (Ord. #93-05-08, Aug. 1993, as replaced by Ord. #05-02-17A, Feb. 2005, and Ord. #2017-03-02C, March 2017 *Ch3\_2-7-19*)

**4-403. Expense reimbursement.** (1) Reimbursement for travel by personal vehicles will be paid only for the shortest usually traveled route related to official business activity.

(2) The mileage reimbursement for use of personally owned cars shall be at the currently approved IRS rate. Only mileage on official town business may be claimed for reimbursement and it will be calculated on the lesser of the distance to their destination from their official work station or their residence.

(3) Reimbursement shall not be made to employees driving personally owned vehicles to their place of employment. However, reimbursement will be paid if a town vehicle is unavailable and employee must use his/her personal vehicle while conducting town-related business.

(4) Charges for routine parking while on travel status will be reimbursed if receipts are provided.

(5) If travel is by air the employee will be reimbursed for the lesser of:

(a) The allowable mileage reimbursement for one (1) round trip and long-term airport parking, or

(b) The appropriate mileage reimbursement for two (2) round trips from home when driven by a friend, or relative, at the employee's option.

(6) The employee will be reimbursed for actual lodging if receipts with itemized room charges and taxes by date are provided.

(7) Tips are considered a reimbursable expense and should be based upon the level of service, but should not exceed twenty percent (20%).

(8) Meals for guests during which town business is transacted are allowable expenses, provided they are approved in advance.

(9) Town employees (or other representatives or guests of the town) attending business meetings or official functions beneficial to the town's interest, and approved in advance by the town manager, police chief or mayor's

office, shall be reimbursed for expenses related to the event. All expenses must be detailed and properly documented.

(10) Expenditures for personal purchases such as entertainment, cover charges, alcoholic beverages, admission fees, valet services and laundry are not reimbursable. (Ord. #93-05-08, Aug. 1993, as replaced by Ord. #05-02-17A, Feb. 2005, and Ord. #2017-03-02C, March 2017 *Ch3\_2-7-19*)

**4-404. Per-diem rate for meals.** (1) The per diem rates for meals are on the travel expense report.

(2) While on travel status if a meal is provided as part of conference, the employee should deduct the cost of those meals from the per diem for that day.

(3) Meal allowance for one (1) day trips. A meal allowance is available for one (1) day travel when the duration of the trip is greater than eight (8) hours. No reimbursement is applicable when the duration of a one (1) day trip is less than eight (8) hours. (Ord. #93-05-08, Aug. 1993, as replaced by Ord. #05-02-17A, Feb. 2005, and Ord. #2017-03-02C, March 2017 *Ch3\_2-7-19*)

**4-405. Expense reporting.** (1) Claims for travel expenses shall be filed on the standard "travel expense report."<sup>1</sup> This form must show details of expenses. Receipts must accompany this form and a separate claim for expenses for each claimant is required.

(2) Claims for reimbursement of expenses shall be submitted to the town treasurer no later than the fifth day of the following month. Expense checks will be issued no later than the fifteenth day of that month.

(3) All reimbursable expenses for a trip must be submitted at the same time and only one request for reimbursement per trip will be accepted.

(4) Personal expenses will not be reimbursed. These include, but are not limited to, laundry, hotel valet service, and other types of personal expenses.

(5) All expense reports will be approved in the following manner:

(a) The town manager, police chief or mayor will approve all expense reports; and

(b) The town treasurer will approve the expense reports of the town manager, police chief, mayor and council members. (as added by Ord. #05-02-17A, Feb. 2005, and replaced by Ord. #2017-03-02C, March 2017 *Ch3\_2-7-19*)

**4-406. Modifications.** The town manager or mayor shall have the power to revoke, modify or make exceptions to any of these rules if deemed necessary in the interest of the town. The mayor shall have the power to modify the travel

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<sup>1</sup>The "travel expense report form," and any amendments thereto, may be found in the recorder's office.

expense report including per diem reimbursement rates. (as added by Ord. #2017-03-02C, March 2017 **Ch3\_2-7-19**)

**CHAPTER 5****TITLE VI COMPLIANCE POLICY****SECTION**

4-501. Policy adopted by reference.

**4-501. Policy adopted by reference.** The Title VI Compliance Manual for the Town of Oliver Springs is hereby adopted in its entirety by reference.<sup>1</sup> It is the policy of the Town of Oliver Springs to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. (as added by Ord. #2016-10-6A, Oct. 2016)

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<sup>1</sup>The Title VI Compliance Manual is on file in the office of the recorder.