

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

1. SOCIAL SECURITY.
2. PERSONNEL REGULATIONS.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. TRAVEL REIMBURSEMENT REGULATIONS.
5. SUBSTANCE ABUSE POLICY.

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

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.
- 4-106. Exclusions.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the Town of Bruceton, Tennessee, to extend at the earliest date, to employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations. (1982 Code, § 1-701)

4-102. Necessary agreements to be executed. The mayor of the Town of Bruceton, Tennessee, 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. (1982 Code, § 1-702)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at

such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1982 Code, § 1-703)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1982 Code, § 1-704)

4-105. Records and reports to be made. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1982 Code, § 1-705)

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

There is also hereby excluded from this chapter any authority to make any agreement with respect to any position, or any employee or official, compensation for which is on a fee basis, or any position, or any employee or official not authorized to be covered by applicable state or federal laws or regulations.

Election workers and election officials shall be excluded from coverage under the Federal System of Old Age, Survivors, Disability, Health Insurance if remuneration paid for such services in a calendar year is less than \$1,000 for services performed in a calendar year on or after January 1, 1995, ending on or before December 31, 1999, and, the adjusted amount to be determined under Section 218 (c) (8) (B) of the Social Security Act for any calendar year commencing on or after January 1, 2000, with respect to services performed during any such calendar year, the exclusion to be effective in and after the calendar year, in which the state's modification to the agreement is mailed, or delivered by other means, to the appropriate federal official. (1982 Code, § 1-706, as amended by Ord. #95-02, June 1995)

CHAPTER 2

PERSONNEL REGULATIONS¹

SECTION

- 4-201. Authority and policy statements.
- 4-202. Functions and procedures.
- 4-203. Employee application and processing.
- 4-204. Personnel manning authorizations.
- 4-205. Classification and method of payment.
- 4-206. Work schedules.
- 4-207. Holidays authorized.
- 4-208. Annual leave policy.
- 4-209. Sick leave policy.
- 4-210. Bereavement leave policy.
- 4-211. Military leave policy.
- 4-212. Special leave policy.
- 4-213. Terminal leave policy.
- 4-214. Employee absence for jury duty.
- 4-215. Employee group insurance plan.
- 4-216. Employee workers compensation insurance plan.
- 4-217. Employee retirement plan.
- 4-218. Counseling and evaluation.
- 4-219. Sexual harassment policy.
- 4-220. Suspension and termination.
- 4-221. Council/employee relations committee.
- 4-222. Employee appeal board.

4-201. Authority and policy statements. (1) Authority. These personnel regulations are promulgated pursuant to the authority contained in § 3.09 of the Charter of the Town of Bruceton.

(2) General restrictions on terms of employment. The Town of Bruceton, pursuant to the constitution, laws and judicial decisions of the State of Tennessee, is a "free-will" employer and, while due efforts shall be made to treat each and every employee, either regular full time, part time, probational, temporary or seasonal, on a fair and equitable basis, it reserves unto itself the full and unencumbered right in all cases where no specific written and duly executed contract to the contrary exists between the town and an employee, officer or official, to terminate any one or number of employees of said town

¹Charter references

Employees--appointment, etc.: § 3.08.

Political activity of employees: § 3.12.

where there is "due cause" in individual cases as set forth hereinbelow or other approved policies of the town, or where the need for an employee's services no longer exist, either through elimination or consolidation of job positions, or by reduction-in-force caused by budgetary limitations.

(3) Prohibited conduct or activities by employees or officials. (a) No town officer or employee shall accept any money or other consideration or favor from anyone other than the town for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to the town's business.

(b) No officer or employee shall use or authorize the use of time, facilities, equipment, or supplies of the town for private gain or advantage to himself or any other private person or group. Provided, however, that this prohibition shall not apply where the town council has authorized the use of such time, facilities, equipment, or supplies, and the town is paid at such rates as are normally charged by private sources for comparable services.

(c) No town officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the town, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others.

(d) No town officer or employee shall participate in any strike against the town, nor shall he join, be a member of, or solicit any other town employee or officer to join any labor union which authorizes the use of strikes by government employees.

(e) No full time officer or employee of the town shall accept any outside employment without a written authorization from the mayor. The mayor shall not grant such authorizations if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his town employment, or is likely to cast discredit upon or create embarrassment for the town.

(f) Due to the nature of the town's governing body and the small number of employees, it is not considered to be in the best interest of the town nor its citizens for its employees to actively participate in the election campaigns of candidates for the offices of mayor or councilmember of the town.

(i) Actively is defined as canvassing or soliciting for votes for any such candidate on a public basis; to provide public advertising therefor, or to act as a public speaker at public functions in support thereof, etc.

(ii) This policy is in no way intended to infringe on the rights of any individual employee to privately express his support

or to exercise his prerogatives of voting for any candidate of his choice for these offices; however, due to the close working relationships and conditions of employment that must of necessity exist in a local governmental operation of limited size, such as the Town of Bruceton, friction between employees and officials and interference with normal performance of official duties may reasonably be expected to arise in such cases and should be avoided as much as possible. (Ord. #95-09, Nov. 1995)

4-202. Functions and procedures. (1) Personnel officer. The town recorder, in addition to his other duties, is designated as the personnel officer; however, nothing herein is to increase or diminish the rights or benefits or bestow rights not set forth as to the office of town recorder, as set forth in the Charter of the Town of Bruceton. It shall be the duty of the personnel officer to assure the implementation of all policies and procedures pertaining to the personnel management of all employees of the Town of Bruceton as required by action of the town council or other action of state or federal government which effects the personnel of the town or requires compliance by the town. He is responsible for administering the town's personnel management program and implementation of the employment policies as set forth hereinafter by the mayor and council, under the supervision thereof.

(2) Personnel office. The offices of city hall of the Town of Bruceton, are hereby designated as the "personnel office" of the town, and shall provide such logistical support as necessary to this office.

(3) Personnel management specialist. One (1) staff position in the offices of city hall shall be established and designated as the "Personnel Management Specialist." This individual shall be responsible for the day-to-day administration and maintenance of the town's personnel related activities, to include creation and maintenance of individual personnel files; administering the payroll and related collection of withholding tax, social security, etc. He or she shall also be responsible for the administering of the town's employee group insurance plan, retirement plan, workers compensation/injury/accident reporting activity, and such other personnel or employee related activities as may be required by, and under the supervision of, the personnel officer. (Ord. #95-09, Nov. 1995)

4-203. Employee application and processing. The Town of Bruceton is an "Equal Opportunity Employer" and an "Affirmative Action Employer." All hiring procedures shall be governed by these programs as promulgated by separate regulations of the town. It is and shall be the policy of the Town of Bruceton that all persons seeking employment with and/or employed by said town, shall have equal employment opportunity regardless of race, religion, creed, color, sex, national origin, ethnic derivation, age or non-restrictive handicap, and that all recruitment, hiring and promotion for all job

classifications shall be without regard thereto, and based solely on the basis of valid job requirement and the related qualifications, capabilities and suitability of the employee, but subject to applicant's legal eligibility for employment pursuant to the U.S. Immigration Reform and Control Act of 1986. All applicants must possess a high school diploma or the GED equivalent, or have their GED completed by the end of the probational period. The town does recognize satisfactory prior employment performance, and will give preference to interdepartmental transfers or departmental promotion to qualified employees in filling a vacancy. In keeping therewith the following procedures will be followed:

(1) Applications. The town does not accept applications for non-advertised positions, nor does it maintain a file of applications for prior actions. When a position vacancy occurs the responsible department/activity supervisor shall notify the personnel officer and provide him with the prerequisites of the position. The personnel officer shall prepare the proper advertisement which shall be placed in the town's official newspaper at least one (1) time, and also notify the local job services office. Normally, the cut-off date for accepting applications will be at least 7 days subsequent to the last date of publication in the official newspaper. The personnel office will assist in providing and collecting all applications.

(2) Screening and interview. When all applications have been received and tabulated, they shall be forwarded to the appropriate department/activity supervisor for review, pre-employment screening and interviews. It shall be the responsibility of the departmental interviewer to ascertain the qualifications and suitability of the applicant, and to insure that the applicant is aware of the specific duties and responsibilities of the position being applied for, as well as the compensation therefor, and for the proper completion of the "Interview Report" form. The proper initial screening and interview cannot be over-emphasized if the town is to obtain and retain efficient and conscientious employees. The responsibility for this program rest primarily with the interviewer and the direct supervisors.

(3) Approval of non-supervisory employees. Applicants for non-supervisory positions are recommended by the departmental supervisor to the mayor and board of aldermen and approved by the mayor. At the conclusion of the interview, the interviewer shall complete the appropriate sections of the application/interview form, and inform the applicant that final approval must be made by the mayor after having been recommended to the mayor and board of aldermen. And further, that any initial employment will be on a probationary status for a period of three (3) months with the exception that all employments with the police department will be accompanied by a probationary status for a period of six (6) months.

(4) Approval of supervisory employees. Applicants for the positions of superintendent or administrative heads of all line departments shall be

screened, interviewed and recommended by the mayor and approved by the town council.

(5) In-processing by personnel. No potential employee shall commence work until he or she has been processed by the personnel office, and the required documentation completed.

(6) Probationary status. Each applicant selected for employment by the town must be made fully aware that his or her initial employment shall be probationary in nature for a period of three (3) months only. This shall serve as an observation and evaluation period. At the end of this probation period the appropriate supervisor shall render the prescribed "Evaluation Report." If the employee's performance of duty, attitude, job behavior, etc., are satisfactory, the supervisor may recommend the employee for regular employment status with the prescribed wage/salary adjustment. However, should the employee prove to be unsatisfactory, for whatever reason, he or she should be advised of such and terminated not later than the end of the three (3) months probation period. It is incumbent upon the supervisor to closely observe and monitor the employee's activity during the probationary period, and to provide counseling where appropriate. Should a probationary employee prove to be unsatisfactory, and counseling and guidance prove ineffective, the employee must be terminated prior to the end of the probationary period. The foregoing notwithstanding, the period of probation for any employee of the police department shall be six (6) months.

(7) Preemployment physical examination. Each applicant selected for employment, whether full time, part time or seasonal, shall be required to pass a preemployment physical examination to determine his or her physical ability to perform the required tasks. This pre-employment physical is to be paid for by the Town of Bruceton. (Ord. #95-09, Nov. 1995, as amended by Ord. #99-01, March 1999)

4-204. Personnel manning authorizations. (1) General. Each position of employment within the Town of Bruceton shall be within a designated department, but this does not mean that the employee will work exclusively within this department. They can and will be utilized in other departments when they are needed due to vacations, sickness, or any other time that the personnel officer or department head feels the need for more manpower in a specific department.

(2) Classification of employees. (a) Full-time employees. All employees who are regular, year-around employees who work more than 30 hours in a seven day work week.

(b) Part-time employees. All employees who normally work less than 30 hours or less in a seven day work week, but who work on a regular basis.

(c) Seasonal employees. All employees who work 30 hours or more per seven day work week, but who are employed for a specific period of time during each fiscal year.

(d) Temporary employees. All employees who are hired to perform a specific task, regardless of the hours worked or the period of time. (Ord. #95-09, Nov. 1995)

4-205. Classification and method of payment. (1) Pay grades and steps. (a) All regular full-time departmental heads, including the personnel officer or recorder, the police chief, the water/sewer superintendent, and the street superintendent, shall be employed at a specific monthly salary.

(b) All other employees shall normally be employed at a specific hourly wage.

(2) Salary and wage charts. During the budget preparation process for each fiscal year a "Salary and Wage Chart" shall be prepared which will indicate the salary or wage for each department and individual employee. These charts, as approved by the town council, shall be included in the line item budgets and shall govern the salary and wages for the ensuing fiscal year.

(3) Annual increases in salaries and wages. During the budget preparation process for each fiscal year the town council shall review the estimated revenues; the general increase in the cost-of-living index, and other factors, to determine if a general increase in employee salary and wages is justified and economically feasible.

(4) Individual adjustments. At such time as a department supervisor believes that an employee is due an increase in pay because of an increase in either his duties or responsibilities, or a decrease in pay justified for disciplinary reasons, he or she will cause an "Employee Evaluation Report" to be prepared and submitted with his or her recommendations to the mayor for review and approval.

(5) Promotional adjustments. Any employee who is promoted to a higher grade level shall be placed in the appropriate step of the higher level to insure that the employee is not subject to a loss in net pay due to such change of grade classification.

(6) Pay periods. All employees will normally be paid on a weekly basis. The seven day pay week will end at 12:00 midnight each Saturday. Payroll checks will be issued each Tuesday. Should Tuesday fall on an approved holiday, the payroll check shall be issued the preceding Monday after 2:00 P.M.. The monthly salaries of a salaried employee may be converted to an hourly equivalent for the purposes of computing weekly payroll. (Ord. #95-09, Nov. 1995)

4-206. Work schedules. (1) Hours of work. Each department head shall establish the work hours for his or her particular department or activity

which will most efficiently provide services for the citizens of the town, subject to the review and approval of the mayor. The office of city hall will be open for the transaction of public business from 8:00 A.M. to 4:00 P.M. Mondays through Thursdays, and from 8:00 A.M. to 5:00 P.M. on Fridays, excluding authorized holidays.

(2) Overtime work. The mayor and board of the Town of Bruceton has determined that it shall be the policy of the said town to incorporate into its personnel management procedures and program, the provisions of the "Fair Labor Standards Act" of the U.S. Department of Commerce, as said act pertains to basic minimum wage and payment of overtime except as is inconsistent with this code, such policy is hereby established by this chapter. Departmental/activity supervisors shall insure that all overtime work is held to the absolute minimum consistent with the health, safety, and welfare of the town. The department or activity head will also be responsible for an employee in his or her department to be given compensation time for hours worked over 40 hours if the employee has specific work related duties, for example: water and waste water treatment plants, wells, sewage lift stations, etc. This will be the standard with the following exception: All employees are subject to being on call 24 hours a day. If the employee is called in for an emergency situation, he or she shall be paid for no less than two (2) hours at their normal overtime.

(3) Budgetary limitations. Each department or activity supervisor shall be responsible for insuring that the expenditures for salaries and wages, including overtime, do not exceed the budget appropriations therefor without the prior review by the director of finance and approval by the mayor. (Ord. #95-09, Nov. 1995)

4-207. Holidays authorized. The following are the currently authorized (13) holidays:

New Years Day	Labor Day
Martin Luther King Day	Veterans Day
Good Friday	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day
	Birthday or Personal Day

(Ord. #95-09, Nov. 1995, modified)

4-208. Annual leave policy. An annual leave program is provided as a privilege but not a right of the town's employees. Abuse of the system may have detrimental effect on the program.

(1) Eligibility to accrue annual leave. It is recognized that the overall efficiency of operation is enhanced through a system of leave periods which are provided to the employee for a regular time of rest and relaxation away from the

work place. At no time will any employee be monetarily compensated in lieu of taking his or her time off. Eligibility of the town's employees for this annual leave program is as follows:

(a) Regular employees: All regular, full-time employees of the town shall be eligible for annual leave which shall be awarded as follows:

Employees with 1-3 years service	5 days
Employees with 4-9 years service	10 days
Employees with 10-16 years service	15 days
Employees with 16+ service receive	20 days

(b) Part-time, seasonal or temporary employees are not authorized annual leave.

(c) Probationary employees are not authorized to accrue annual leave; however, when such employee completes his or her probationary service and is classified as a regular, full-time employee, their annual leave shall be computed retroactively to their initial date of employment.

(2) Accrual of annual leave. For accounting purposes, annual leave is to be based on the town's fiscal year (July 1 through June 30).

(3) Maximum accumulation of annual leave. As stated above, the purpose of providing employees annual leave is to allow them time away from their usual work routines. Leave may not be accumulated from year to year.

(4) Annual leave may be used as terminal leave. Upon termination of employment an employee, who does not otherwise forfeit his or her accrued annual leave benefits, may use all accrued annual leave, to the maximum allowable accrual as terminal leave with pay. Withholding and social security, plus other payroll deductions, shall apply to these payments. Such employee will not accrue additional leave while on terminal leave.

(5) Annual leave may not be advanced. Annual leave cannot be granted in advance of its being earned.

(6) Scheduling of annual leave. Any employee shall request to use his or her accrued annual leave by application to his or her supervisor. The employee shall use at least one half of his/her accrued annual leave during the time period July 1 through December 31 of each year. The employee shall use the balance of his/her accrued annual leave during the time period January 1 through June 30 of each year. Such requests shall be normally approved, subject always to the superior right of the supervisor to plan the work under his contract and to authorized absence only at such time as the employee can best be spared.

***Exceptions to the above will be considered for extenuating circumstances subject to approval from the supervisor and/or the mayor and/or the board of aldermen.

(7) Accounting for annual leave. (a) Each employee shall be provided an individual annual leave account record, on which all annual leave

accrued and taken shall be recorded. This record shall be maintained by the personnel office, and shall be the only official copy. Supervisors may maintain "convenience" records if they wish; however, in all cases the official copy is the primary record. This leave account record shall become a permanent part of the employee's personnel file.

(b) Only scheduled work days shall be charged in calculating the amount of annual leave taken. Thus, Saturdays, Sundays and official holidays will not be counted when they fall within a leave period, unless they are considered a normal work day for a particular employee. In these cases the employee's normal "off days" will not be counted during leave periods. (Ord. #95-09, Nov. 1995, as amended by Ord. #98-04, June 1998)

4-209. Sick leave policy. A sick leave program is provided as privilege but not a right of the town's employees. Abuse of the sick leave system can have a detrimental effect on the program.

(1) Eligibility to accrue annual sick leave.

(a) All regular full-time employees shall be authorized or granted 15 sick days per year.

(b) Part-time, seasonal or temporary employees are not authorized sick leave; however, in exceptional cases they may, on an individual basis, be granted minimal time-off with pay if approved by the mayor.

(c) Probationary employees do not accrue sick leave during their probationary period; however, when such employment becomes regular, full-time employment their annual sick leave shall be computed retroactively to their initial date of employment.

(2) Accrual of annual sick leave. As stated above, each full-time employee will be granted 15 sick days per year.

(3) Maximum accumulation of annual sick leave. There will be a twenty (20) day limit on the number of days of sick leave an employee may accrue. Five days of sick leave may be carried over from one year to the next. Thus, if an employee does not use the full amount of days allotted, the remainder will be added to the next year's total sick days, not in excess of five days carry over, thus giving a total of twenty.

(4) Sick leave may be used as terminal leave. A regular, full-time employee may use a maximum of 20 days of accrued sick leave as terminal leave only upon their approved retirement, either by age or disability. The exchange rate shall be one (1) day of terminal leave for each two (2) days of accrued sick leave, i.e. 20 days of sick leave will equal 10 days of terminal leave.

(5) Annual sick leave may not be advanced. Annual sick leave may not be granted in advance of its being earned.

(6) Use of sick leave. Eligible employees may be granted the use of annual sick leave for the following purposes:

- (a) Personal illness.
- (b) Disability due to accident.
- (c) Exposure to contagious disease.
- (d) Maternity - pre and post natal.
- (e) Medical or dental appointments requiring an absence from work.
- (f) The verifiable illness of one of the following relatives of the employee:
 - (i) Spouse;
 - (ii) Child;
 - (iii) Parents, foster parents or parents-in-law.

(7) Application, approval and accounting for sick leave. To be approved for use of sick leave days, the employee must telephone the personnel office on or before the days requested and before he or she is to report for work. If this criteria is not met, the employee will not be paid for the time missed from work.

(8) Sick leave charged as annual or special leave. In applicable circumstances, where the employee has no accrued sick leave, such absence may be charged to annual leave if available. If neither sick or annual leave is available, such absence may be charged to special leave (leave without pay).

(9) Documentation required for sick leave. Any employee using more than three (3) consecutive days of sick leave will be required to provide a certification of the medical necessity for their absence from a medical doctor or other competent medical professional. In any case where it is evident that an employee is abusing his or her sick leave privilege, such as a consistent pattern of using sick leave on Fridays and/or Mondays, the department supervisor shall have the right and duty to require such employee to provide suitable documented evidence of their illness or injury. Further, in such cases, the mayor shall have the right to suspend and/or revoke their sick leave privileges after having duly counseled the employee of the consequences of his or her abuse of sick leave privileges. A medical doctor's certificate shall be required in all cases of sick leave for pre-natal or post-natal care, setting forth the required period of absence. (Ord. #95-09, Nov. 1995)

4-210. Bereavement leave policy. A regular, full-time employee may be granted up to three (3) days of bereavement leave upon the death of a spouse, child, sibling, parent, foster parent, parent-in-law, or grandparent. This is a non-accruable, non-chargeable leave with pay. (Ord. #95-09, Nov. 1995)

4-211. Military leave policy. Employees of the Town of Bruceton shall be granted military leave for periods of active duty in conformance with Tennessee Code Annotated, § 8-33-101 et. seq., and U. S. Code Title 38, 2021 et seq., and 2024 (2)(g). (Ord. #95-09, Nov. 1995)

4-212. Special leave policy. Special leave is an authorized leave of absence without pay. It may be granted to an eligible employee upon proper application and review and approval of the mayor for a period not to exceed one (1) calendar year.

(1) Eligible employees. All regular full-time employees are eligible to apply for special leave.

(2) Ineligible employees. All probationary, part-time, seasonal or temporary employees are not eligible to apply for special leave.

(3) Limitations. Special leave may only be used after any accrued annual or sick leave for which the employee may otherwise be eligible has been exhausted.

(4) Authorized purposes. Typical purposes for which special leave may be granted are:

(a) Extended illness which cannot be covered by annual or sick leave days.

(b) Inability to perform duty due to service-connected injury or temporary disability and while drawing workers compensation.

(c) Personal education or training.

(d) For rest/recreational purposes in extenuating circumstances.

(e) Maternity, not to exceed a period of twelve weeks.

(5) Accounting for special leave. As special leave is a leave of absence without pay, and authorized only when the employee has no accumulated annual or sick leave, all calendar days are counted in the one (1) calendar year limitation of the special leave. (Ord. #95-09, Nov. 1995)

4-213. Terminal leave policy. (1) Annual leave. Upon separation from employment by the town other than for reasons of gross misconduct, an employee is eligible to utilize his or her accumulated annual leave as a terminal leave up to a maximum of forty-two (42) days - the maximum which could be accumulated as of June 30th.

(2) Sick leave. Accumulated sick leave may be used for terminal leave purposes upon approved retirement, by either age or disability. (Ord. #95-09, Nov. 1995)

4-214. Employee absence for jury duty. It is recognized that all citizens have an obligation to perform jury duty when called and selected. The policy of the Town of Bruceton shall be to encourage its employees to discharge this civic duty whenever possible. All employees of the town who are absent from their work place to attend to bona-fide jury duties may be paid at their normal salary or wage rates for hours they are absent from their work places, unless they elect to use their annual leave days; however, all compensation received by such employee shall be turned over to the town and paid into the general fund of the town unless the employee is on annual leave. (Ord. #95-09, Nov. 1995)

4-215. Employee group insurance plan. The Town of Bruceton currently provides eligible employees a group medical and life insurance plan provided through the retirement plan. These are provided by the town at no cost to the employee.

(1) Eligible employees. All regular full-time employees who work at least thirty (30) hours per work week for the town are eligible.

(2) Ineligible employees. All probationary, part-time, seasonal or temporary employees are ineligible.

(3) Supplemental benefits. If any employee carries a supplemental insurance, the premiums for this supplemental insurance will be paid by the employee through a payroll deduction.

(4) Insurance plan handbook. Each employee upon his initial enrollment into the plan will be furnished a handbook on the town's group insurance plan which provides detailed information. All employees are encouraged to read this handbook carefully. The requirements imposed by the insurance carrier must be adhered to in order for the employee to receive full claim payments. All questions should be referred to the personnel office.

(5) Filing of insurance claims. It is the responsibility of the employee to notify the insurance office of the medical facility where he or she is receiving covered treatment of his or her medical coverage and present the employee identification card at the time of treatment or admission. It is the responsibility of the employee and the medical facility to file for all insurance claims. The personnel office does not file claims for the employees.

(6) Continuance of medical coverage. Under certain circumstances a terminated employee, or a covered divorced spouse, or a covered dependent may continue the employees or dependent coverage beyond the termination date for various periods up to 36 months by signing certain agreement forms and paying the required premiums. Affected employees should inquire at the personnel office not later than 90 days prior to anticipated termination for more detailed information.

(7) Schedule of benefits. Complete details of benefits available under the group plan, including major medical coverage, are contained in the employee medical plan handbook. (Ord. #95-09, Nov. 1995)

4-216. Employee workers compensation insurance plan.

(1) Coverage. All employees, regular, part-time, probational, seasonal or temporary, of the Town of Bruceton, including volunteer firefighters while on active service, are provided coverage for sickness or injury incurred as a result of, or during service for the town, as provided for by the appropriate laws governing workers compensation as established by the State of Tennessee.

(2) Reporting of injuries. All work related injuries should be reported to the personnel office within 24 hours of injury, but in no case later than 30 days, and the proper OSHA report forms completed in detail.

(3) Reporting of sickness. All work related sickness should be reported to the personnel office within 24 hours of the employee becoming aware of the possibility of the sickness being work related, but in no event more than 30 days. If the employee is physically unable to render this report, the next of kin or other responsible person should report the sickness.

(4) Claims. All claims of any nature concerning workers compensation will be filed at the personnel office. A delay in the reporting of the work related injury or sickness could result in a loss of benefits to the employee concerned.

(5) Dual payments. As workers compensation is made available to the employees to preclude a loss of pay while they are unable to work due to a work related injury or illness, it is not intended that the employee receive workers compensation and also his full salary or wages from the town. An employee who is absent from work due to work related injury or illness; is drawing workers compensation, and has accrued annual or sick leave, will be permitted to use such leave for pay purposes at the rate of one day annual or sick leave for every 3 days of absence while on workers compensation. (Ord. #95-09, Nov. 1995)

4-217. Employee retirement plan. The Town of Bruceton provides its eligible employees a purchase money pension plan without cost to the employee. A copy of the retirement plan manual is on file in the personnel office and all employees are encouraged to ask questions concerning their participation.

(1) Eligible employees. All regular full-time employees are eligible to enter into the employee's retirement plan after attaining the age of 24 years, and completion of thirty (30) months of continuous qualifying service.

(2) Withdrawals of entitlements. Due to the complexity of the eligibility, vesting, and procedures, this subject will not be covered in this regulation; however, employees should be referred to the retirement plan manual in the personnel office. (Ord. #95-09, Nov. 1995)

4-218. Counseling and evaluation. (1) Counseling. (a) The most effective means of maintaining high levels of employee efficiency and morale is for the supervisor to be constant in his supervision and observation of the employee's performance of duty and his work habits; to allow an employee to exercise initiative and to apply the principles of counseling constructively, fairly and impartially. Counseling not only means to provide the proper instruction and direction to an employee who is performing marginally or unsatisfactorily, but also to offer words of encouragement and praise for work well done. In those cases where an employee has performed unusually well in a particularly difficult assignment, an appropriate letter of appreciation or commendation may be in order. How well an individual performs in his or her job is directly related to the manner as well as the amount of supervision afforded the employee. Therefore, the burden for assuring the town the best possible employee work force will fall on the supervisor concerned.

(b) The areas with which the supervisor will be most concerned is that of an employee who is not performing his or her job satisfactorily, or who has developed undesirable work habits and/or attitudes. It is again emphasized that such employees must be counseled promptly and adequately. On the first occasion the formal counseling may be verbal and the employee given a specific period of time in which to correct his or her deficiencies. Should the employee refuse to respond, all subsequent counseling shall make use of the "Employee Evaluation Report" or "Employee Warning" forms which are available from the personnel office. These reports will be read and acknowledged by the employee and forwarded to the mayor. As proof of constructive counseling is critical to the termination of an employee for cause, the importance of the proper use of these forms cannot be over-emphasized.

(c) The supervisor must be as alert to counsel an employee for performing unusually well, as he is to counsel critically.

(2) Performance evaluation. The initial employee performance evaluation form shall be completed by the department supervisor at the end of the initial probationary employment period and forwarded to the personnel officer with a recommendation for regular employment, or termination of same, stating the reasons therefor. Thereafter, each employee shall receive a performance evaluation and counseling at the end of each fiscal year. Such evaluations must be made fairly and objectively without personalities becoming involved. "Employee Performance Evaluation Report" forms will be made available from the personnel office.

(3) Performance evaluation increase in salary or wages. If the employee's job performance, behavior and attitude have been above average, the supervisor may recommend the employee for a performance and evaluation increase in salary or wages, in such an amount as approved by the town council in the annual budget documents, subject to review and approved by the mayor.

(4) Letters of appreciation. Letters of appreciation or commendation from whatever source shall be brought to the attention of the mayor and town council and filed in the employee's personnel file. (Ord. #95-09, Nov. 1995)

4-219. Sexual harassment policy. The definition of sexual harassment includes conduct directed by men towards women, conduct directed by men towards men, conduct directed by women towards men, and conduct directed by women towards women. Consequently, this policy applies to all officers and employees of the Town of Bruceton, including but not limited to, full and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulation of the town, and employees working under contract for the town.

(1) Definition. Sexual harassment or unwelcomed 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 materials, 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 Town of Bruceton.

(2) Making sexual harassment complaints. The town 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 town is responsible for acts of sexual harassment in the work place where the town (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the town took immediate and appropriate corrective action. The town may also be responsible for the acts of non-employees, with respect to the sexual harassment of employees in the work place, where the town (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate action. Prevention is the best tool for the elimination of sexual harassment. Therefore, the following rules shall be strictly enforced. An employee who feels he or she is being subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels most comfortable. Complaints must be made in writing to:

The immediate supervisor or department head,
The personnel officer or town recorder,
The mayor and/or board of aldermen.

Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of sexual harassment. Regardless of which of the above persons the employee makes 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 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.

(3) Reporting and investigating of sexual harassment complaints. The police chief is the person designated by the town to be the investigator of complaints of sexual harassment against employees. In the event the sexual harassment complaint is made against the personnel director, the investigator shall be a municipal employee appointed by the mayor. When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the investigator. 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 mayor. The report shall include the written statement for the person complaining of sexual harassment, the written statement of any 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.

(4) Action on complaints of sexual harassment. Upon receipt of the report of a complaint of sexual harassment the mayor shall immediately review the report. If the mayor determines that the report is not complete in some respect, he or 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 or her own investigation, where one is made, the mayor shall, within a reasonable time, determine whether the conduct of the person against whom a complaint of harassment has been made constitutes sexual harassment. In making that determination, the mayor shall look at the record as a whole and at the totality of 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 mayor determines that the complaint of harassment is founded, he or she shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment, consistent with his authority under the town charter, ordinances or rules governing his authority to discipline employees. If the mayor feels that disciplinary action stronger than he or she is authorized to impose by the charter, ordinances, resolutions, or rules of governing the employee discipline is warranted, he or she shall make that determination known to the board of aldermen of the Town of Bruceton, together with that report of the investigation. If the governing body determines that the complaint of sexual harassment was founded, it may discipline the employee consistent

with its authority under the charter, ordinances, resolutions, or rules governing employee discipline. The disciplinary action shall be consistent with the nature and severity of the offense, the rank of the employee, and any other factors the governing body believes relate to fair and efficient administration of the municipal government, 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 town. 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 all 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 other person connected with the investigation of sexual harassment. In cases where the sexual harassment is committed by a non employee against an employee of the town in a work place, the mayor shall take whatever lawful action against the non-employee is necessary to bring the sexual harassment to an immediate end.

(2) Obligation of 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 to or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith. (Ord. #95-09, Nov. 1995)

4-220. Suspension and termination. Pursuant to the town's charter, the mayor, after consultation with the board of aldermen, has the authority to make demotions, suspensions, and removal of employees for reasonable cause; however, before removal or suspension, an employee shall be given a written notice, by certified mail, of intention to suspend or terminate him or her, containing a clear statement of the grounds for such proposed actions and notification that he or she may appeal to the town's employee appeal board, consisting of the mayor and board of aldermen, by filing, within ten (10) days, with the town recorder written notice of his or her intention to do so. (The "Employee Warning Report" form as provided by the personnel office may be used for this purpose.)

(1) Suspension. (a) Employees who fail to perform their duties at a satisfactory level, and who have received counseling and a "Employee Warning Report" issued thereto, and who have failed to respond to such

counseling within a reasonable and stated period, shall be subject to suspension without pay for a period not to exceed ten (10) working days on the first offense, or

(b) Employees who are repeatedly late in reporting for work shall, after the proper counseling and warning, be suspended without pay for a period not to exceed ten (10) days on the first offense, or

(c) Employees who are insubordinate or refuse or are reluctant to follow instructions shall, after the proper counseling and warning, be suspended without pay for a period not to exceed ten (10) days on the first offense, or

(d) Employees who, by their actions or inactions, adversely affect the performance of his/her duties, or cause embarrassment to the town or otherwise bring discredit to his/her department and the town may be, after the proper counseling and warning, suspended without pay for a period not to exceed ten (10) days on the first offense.

(e) Employees who have served one (1) period of suspension (for not more than ten [10] days) may be suspended, after proper counseling and warning, without pay for the second time for the same general offense for not more than thirty (30) working days.

(f) Supervisors recommending such suspension shall complete and forward to the mayor for his review and approval the appropriate "Employee Warning Report" along with any other pertinent counseling reports. The "Employee Warning Report" must be completed in detail. The employee is required to sign this form.

(2) Termination. (a) Voluntary. (i) Any employee of the town who desires to terminate his employment with the town shall provide a minimum of two (2) calendar weeks notification of his or her intent to terminate, in writing, through his supervisor to the personnel office. This requirement will allow a period of time to secure a replacement for the employee and to process the paperwork.

(ii) The department supervisor shall be responsible for completion of the "Termination Report" form, which shall be provided by the personnel office. Upon completion and review, this form shall become a permanent part of the employee's personnel file.

(iii) Any employee who terminates his or her employment without the required prior notice may forfeit all rights and claims to accrued benefits or to re-employment by the town.

(iv) Any employee who intends to terminate his employment through retirement shall indicate his intent in writing to the personnel office not later than ninety (90) days prior to the anticipated retirement date to allow time for the administrator of the retirement plan to obtain the necessary forms

and file on behalf of the employee. Employees who fail to do so will risk a delay in the receipt of their retirement benefits.

(b) Involuntary termination - FOR CAUSE. (i) Any employee who, after the appropriate counseling, warnings and/or suspension, fails to perform his or her duties in an acceptable manner, or to correct his or her unacceptable actions or behavior, shall be subject to termination for cause.

(ii) Any employee who is guilty of impropriety or gross misconduct which will reflect unfavorably on the town and thereby renders his or her continued service in the town's employ unacceptable, shall be subject to immediate termination for cause. This shall include but not be limited to the discussion of official municipal business to any unauthorized personnel.

(iii) Action for termination may be initiated by the supervisor, the personnel officer or the mayor, as may be appropriate, who shall be responsible for completion of the "Termination Report" and any required documentation which will be forwarded to the mayor for sharing with the board of aldermen and then approved by the mayor.

(iv) Any employee who is involuntarily terminated for due cause or gross misconduct is subject to forfeiture of all rights to benefits which may have accrued to him or her, including unemployment compensation, but excluding any vested interest in the town pension plan which the employee may have.

(c) Involuntary termination - NOT FOR CAUSE. (i) In those cases where a regular full-time employee who is performing satisfactorily must be released from his employment by the town due to circumstances beyond his control, i.e., elimination of the position, budgetary limitations, reductions-in-force, etc., such employee shall retain his or her full rights to all benefits which may have accrued to him or her, and further, he or she shall be eligible for re-hire without loss of continuous service benefits if an appropriate vacancy occurs within one (1) year of the date of such termination. Such employee will be given preferred consideration before other non-prior service persons applying for such vacancy.

(ii) In these cases, the personnel office will initiate the appropriate "Termination Notice" which shall be forwarded to the department concerned for further action. (Ord. #95-09, Nov. 1995)

4-221. Council/employee relations committee. Immediately upon passage of this amendment, and each subsequent municipal election, the mayor shall appoint, subject to the approval of the majority of the council, a standing council/employee relations committee, which shall be composed of three (3) serving councilmembers, whose appointments shall run concurrently with their

terms of office, and the personnel officer, as a member ex officio. This committee is to meet with department supervisors and/or employees on a regular basis for the purpose of exchange of information and ideas to enhance the efficiency of the town's operations; to deal with any labor relations problems which may arise, and to keep the council informed. (Ord. #95-09, Nov. 1995)

4-222. Employee appeal board. (1) Right of appeal. Any employee who has been informed of a demotion, suspension or termination action against him or her shall have the right to appeal the proposed actions to the Employee Appeal Board of the Town of Bruceton by filing with the recorder within ten (10) days of his or her being formally notified of a proposed suspension or termination, a written statement of his or her intent to do so.

(a) Upon the filing of such an appeal, the recorder shall duly notify the employee appeal board, which shall set a time and place for a public hearing on the matter, to be held within twenty (20) days thereafter. Four votes of the membership of the board shall be required to override the demotion, suspension or termination, and the actions of the board shall be a final determination of the matter.

(b) Subject to the hearing of such appeals, the employee may, if not endangering the public welfare by doing so, remain on their regular job. Should it not be in the best interest of the town for the employee to remain on the work site during the appeal process, he or she may be placed on "administrative leave" with full pay and benefits pending the resolution of the appeal.

(2) Composition of the board. The duly elected and serving mayor and councilmembers of the Town of Bruceton shall function as the "Employee Appeal Board" and shall hear appeals in either regular or called sessions. The findings of the employee appeal board shall be final and are not subject to review by or appeal to any other agency, organization or judicial body. (Ord. #95-09, Nov. 1995)

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-301. Title.
- 4-302 Purpose.
- 4-303. Definitions.
- 4-304. Coverage.
- 4-305. Employer's rights and duties.
- 4-306. Employee's rights and duties.
- 4-307. Standards authorized.
- 4-308. Variances from standards authorized.
- 4-309. Imminent danger.
- 4-310. Inspection.
- 4-311. Citation and hearing.
- 4-312. Penalties.
- 4-313. Recordkeeping and reporting.
- 4-314. Administration.
- 4-315. Compliance with other laws, etc.

4-301. Title. This chapter shall be known as "The Occupational Safety and Health Program for the Employees of the Town of Bruceton." (1982 Code, § 1-801)

4-302. Purpose. The Town of Bruceton, in electing to establish and maintain an effective occupational safety and health program for its employees, shall:

- (1) Provide a safe and healthful place and condition of employment.
- (2) Acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect employees, with the exception of articles of personal protective equipment which are required by regulation to be purchased by employees, as soon as the town can investigate the availability and the most economical cost of the aforesaid.
- (3) Make, keep, preserve, and make available to the State Commissioner of Labor, his designated representative or persons within the agency to whom such responsibilities have been delegated, including the director of the office of occupational safety and health, adequate records of all occupational accidents and personal injuries for proper evaluation and necessary corrective action as required. However, these provisions shall not take effect until and after the town has received and reviewed record keeping forms, procedures, and guidelines provided by the state, and thereafter these provisions shall not take effect until after the town has had a reasonable period

of time to set up and provide for the orderly implementation and use of such records and procedures.

(4) Consult with the state commissioner of labor or his designated representative with regard to the adequacy of the form and content of records.

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

(6) Make an annual report to the state commissioner of labor to show accomplishments and progress of the total occupational safety and health program as soon as reasonably possible after the town has implemented the provisions of subsection (3) hereinabove set forth.

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

(8) 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 as soon as reasonably possible after the provisions of this chapter have been enacted. (1982 Code, § 1-802)

4-303. Definitions. For the purpose of this program:

(1) "Commissioner of labor" means the chief executive officer of Tennessee Department of Labor. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of labor.

(2) "Commissioner of public health" means the chief executive officer of the Tennessee Department of Public Health. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of public health.

(3) "Employer" means the Town of Bruceton, and shall include each administrative department, commission, board, division, or other agency of the town.

(4) "Director of personnel" means the chief executive officer designated by the Town of Bruceton to perform duties or to exercise powers assigned so as to plan, develop, and administer the town's occupational safety and health program.

(5) "Compliance inspector(s)" means the individual(s) appointed and designated by the director of personnel to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, the inspections shall be conducted by the director of personnel.

(6) "Appointing authority" means any city official or group of officials having legally designated powers of appointment, employment, or removal for the specific department, commission, board, division, or other agency of the town.

(7) "Employee" means any person performing services for the Town of Bruceton and listed on town payrolls either as part time, seasonal, or permanent, full-time employees; provided, however, that such definition shall not include independent contractors, their agents, servants, and employees.

(8) "Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any original group of persons.

(9) "Standard" means an occupational safety and health standard promulgated by the Tennessee State Commissioner of Labor or the State Commissioner of Public Health which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe and healthful employment and places of employment.

(10) "Imminent danger" means any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal enforcement procedures; provided, however, that this definition shall not include hazardous operations which are undertaken for the public's safety and well-being.

(11) "Serious physical harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:

(a) A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger; loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g. leg shattered so severely that mobility would be permanently reduced), or

(b) A part of an internal bodily system would be inhibited in its normal performance to such a degree as to shorten life or cause reduction in physical or mental efficiency; (e.g., lung impairment, causing shortness of breath).

On the other hand, breaks cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

(12) "Establishment" or "workplace" means a single physical location where business is conducted or where service or industrial operations are performed. (1982 Code, § 1-803)

4-304. Coverage. The provisions of this program shall apply to employees of each administrative department, commission, board, division, or other agency of the Town of Bruceton. (1982 Code, § 1-804)

4-305. Employer's rights and duties. Rights and duties of the employer shall include but are not limited to the following provisions:

(1) Employer shall furnish to each of his employees conditions of employment and a place of employment free from known and recognized hazards that are causing or are likely to cause death or serious injury or harm to employees; provided, however, that employer shall have a reasonable period of time to correct any such hazards.

(2) Employer shall comply with occupational safety and health standards or regulations promulgated pursuant to the State Occupational Safety and Health Act of 1972.

(3) Employer shall assist the State Commissioner of Labor and State Commissioner of Public Health, upon reasonable notice from the said commissioners, in the performance of their inspection duties by supplying necessary information to the commissioners or to their respective assistants or deputies.

(4) Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearings on proposed standards, or by requesting the development of standards on a given issue.

(5) Employer is entitled to request an order granting a variance from an occupational safety and health standard.

(6) Employer is entitled to protection of his trade secrets and other legally privileged communications.

(7) Employer shall inspect all installations, departments, bureaus, and offices to insure the provisions of this program are complied with and carried out as soon as reasonably possible after the provisions of this chapter have been fully implemented.

(8) Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard of corrective action being taken by the town. (1982 Code, § 1-805)

4-306. Employee's rights and duties. Rights and duties of employees shall include but are not limited to the following provisions:

(1) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

(2) Each employee shall be notified by the placing upon bulletin boards, or other places of common passage, of any application for a temporary order granting a variance from any standard or regulation.

(3) Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

(4) Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the director of personnel.

(5) Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and the corrective action being taken as soon as reasonably possible after the provisions of this chapter have been fully implemented.

(6) Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection.

(7) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under or relating to this program.

(8) Any employee who believes that he or she has been discriminated against or discharged in violation of any of these sections may, within thirty (30) days after such violation occurs, file a complaint with the Director of Personnel of the Town of Bruceton.

(9) Nothing in this section or any other provision of this program shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, and except when such medical examination is reasonably required for performance of a specified job. (1982 Code, § 1-806)

4-307. Standards authorized. The standards adopted by the Town of Bruceton are the applicable State of Tennessee safety and health standards developed under section 6 of the State Occupational Safety and Health Act of 1972. (1982 Code, § 1-807)

4-308. Variations from standards authorized. The Town of Bruceton may, upon written application to the State Commissioner of Labor or the State Commissioner of Public Health, request an order granting a temporary variance from any approved standards. Prior to requesting such temporary variance, the employer shall notify or serve notice to employees or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the town shall be deemed sufficient notice to employees. (1982 Code, § 1-808)

4-309. Imminent danger. (1) Any allegation of imminent danger received shall be handled in accordance with the following procedures:

(a) The director of personnel shall immediately ascertain whether there is a reasonable basis for the complaint.

(b) If the imminent danger complaint appears to have merit, the director of personnel shall cause an immediate inspection of the alleged imminent danger location.

(c) As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the director of personnel or the compliance inspector shall attempt to have the danger corrected through voluntary compliance. If any employees appear to be in immediate danger, they should be informed of the danger, and the supervisory personnel in charge should be requested to remove them from the area of immediate danger.

(d) The administrative head of the workplace or his authorized representative is responsible for determining the manner in which he will abate the dangerous condition.

(e) The imminent danger shall be deemed abated if the imminence of the danger has been eliminated by removing the employees from the area of danger or the conditions or practices which resulted in the imminent danger have been eliminated.

(f) A written report shall be made to the director of personnel describing in detail the imminent danger and its abatement. (If a compliance inspector is not appointed, this provision should be omitted).

(2) The following procedures shall be followed in the event of a refusal to abate: The director of personnel shall take whatever steps are necessary to comply with the abatement procedures set forth in subsection (1)(e) above. (1982 Code, § 1-809)

4-310. Inspection. (1) In order to carry out the purpose of this program, the director of personnel or, if one is appointed, the compliance inspector is authorized:

(a) To enter at any reasonable time any establishment, construction site, plant, or other area, work place, or environment where work is performed by an employee of the Town of Bruceton; and,

(b) To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.

(2) If an imminent danger situation is alleged or brought to the attention of the director of personnel or a compliance inspector during a routine inspection, he shall immediately inspect the imminent danger situation before inspecting the remaining portions of the workplace.

(3) An administrative representative of the town and a representative authorized by the employees may be given an opportunity to consult with or to accompany the compliance inspector (director of personnel) during the physical

inspection of any work place for the purpose of aiding such inspection.

(4) The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.

(5) The inspection shall be such as to preclude unreasonable disruptions of the operations of the work place or establishment.

(6) Interviews of employees during the course of the inspection, when accompanied by an employee representative, may be made when such interviews are essential to the investigation techniques.

(7) Inspections shall be accomplished without advance notice, but the director of personnel may authorize the giving to any supervisor or employee advance notice of an inspection. (1982 Code, § 1-810)

4-311. Citation and hearing. (1) If, upon an inspection or investigation, the director of personnel or his compliance inspector(s) should one be appointed, find that any work place is not in compliance with any standard, rule, regulation, or order, and said official is unable to effect a voluntary agreement to bring the work place into compliance, he shall, with reasonable promptness, issue to the administrative officer responsible for the work place a written citation that states the nature and location of the violation; the standard, rule, regulation, or order violated; the abatement and correction requirements; and a period of time during which the work place must accomplish such abatement and correction. A copy of each citation shall immediately be posted at or near each location referred to in the citation and remain posted until the alleged violation has been corrected or vacated.

(2) At any time within ten (10) days after receipt of such citation, anyone affected may advise the director of personnel of objections to the terms and conditions of the citation. Upon receipt of such objections a hearing shall be held, and the director of personnel shall thereafter issue an order affirming, modifying, or vacating the citation, and such order shall be final.

(3) The director of personnel may issue subpoenas pursuant to his duties as set forth herein to require the attendance and testimony of witnesses and the production of evidence under oath at such hearings. (1982 Code, § 1-811)

4-312. Penalties. (1) The Town of Bruceton shall not issue any civil or criminal penalties against any public official, employee, or any other person, administrative department, commission, board, division, or other agency of the Town of Bruceton for failure to comply with the safety and health standards.

(2) Any employee who willfully and repeatedly violates or causes to be violated a safety standard, rule, regulation, or order shall be subject to disciplinary action by the mayor. The mayor has the power to administer discipline, and it shall be his duty to take action in one of the following ways:

- | | |
|--------------------|-----------------------|
| (a) Oral reprimand | (b) Written reprimand |
| (c) Suspension | (d) Termination |

(3) The employee being disciplined shall have the right of appeal to the director of personnel within ten days after receiving notice of the disciplinary action; and a hearing shall be held as set forth in subsections (2) and (3) of § 4-311. (1982 Code, § 1-812)

4-313. Recordkeeping and reporting. (1) The Town of Bruceton shall establish and maintain a system for collecting, maintaining, and reporting safety and health data as soon as reasonably possible after implementing § 4-302.

(2) All occupational injuries and illnesses shall be reported to the director of personnel on the OSHA forms provided by the State Department of Labor, except that Workmen's Compensation Form 6A may be used in lieu of the Supplementary Record of Occupational Injury/Illness, Form OSHA No. 101.

(3) The director of personnel shall maintain a continuous log of occupational injuries and illnesses compiled from the reports set forth above and recorded on Form OSHA No. 100.

(4) Such occupational safety and health records shall be maintained for a period of five (5) years following the end of the year to which they relate.

(5) After the provisions of this chapter have been enacted, the Town of Bruceton shall report within forty-eight (48) hours, either orally or in writing, to the Commissioner of Labor any accident which is fatal to one or more employees or which results in the hospitalization of five (5) or more employees.

(6) The Town of Bruceton shall make an annual report, after the provisions of this chapter have been fully implemented, to the Commissioner of Labor showing the statistical data required by section 50-550-106 (Annual Summary) of the State OSHA Regulations for Recordkeeping and Reporting. (1982 Code, § 1-813)

4-314. Administration. For the purpose of this chapter, the city recorder is hereby designated as the director of personnel and is likewise designated as the chief executive officer to perform duties or to exercise powers assigned so as to plan, develop, and administer the town's occupational safety and health program.

(1) Upon authorization from the board of mayor and aldermen, the director of personnel may designate, appoint, or employ persons as he deems necessary to carry out his powers, duties, and responsibilities under the program.

(2) The director of personnel, to the extent possible, shall recommend the employment of measures to coordinate the activities of all city departments to promote efficiency and to minimize inconvenience under the program.

(3) The director of personnel may delegate the power to make inspections to the compliance inspector(s), provided that the procedures employed are as effective as those employed by the director.

(4) The director of personnel shall develop a plan, pursuant to the town's occupational safety and health program, and such a plan shall be submitted for approval and adopted by the board of mayor and aldermen. Any subsequent changes or modifications in the plan shall also be submitted to the board of mayor and aldermen for approval and adoption.

(5) The city recorder shall upon adoption of the provisions of this chapter immediately register the town's occupational safety and health program with the State Commissioner of Labor, by sending to the Commissioner of Labor by certified mail a written statement which includes:

(a) A statement that the Town of Bruceton has elected to develop its own program of compliance;

(b) A statement that such program has been developed and has been reduced to writing;

(c) A statement of where such writing may be inspected;

(d) A statement that city employees have been informed of the program and have access to such writing;

(e) An assurance that the town's program incorporates standards developed pursuant to the State Occupational Safety and Health Act;

(f) A description of the methods of inspection provided for herein and an assurance that such program includes provisions for inspection and recordkeeping as effective as the provisions of the Tennessee Occupational Safety and Health Act of 1972. (1982 Code, § 1-814)

4-315. Compliance with other laws, etc. Compliance with any other law, statute, or ordinance which regulates safety and health in employment and places of employment shall not excuse the Town of Bruceton, any town employee, or any other person from compliance with any state law or city ordinance regulating and promoting safety and health unless such law or resolution is specifically repealed. (1982 Code, § 1-815)

CHAPTER 4

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-401. Purpose.
- 4-402. Enforcement.
- 4-403. Travel policy.
- 4-404. Travel reimbursement rate schedules.
- 4-405. Administrative procedures.

4-401. Purpose. The purpose of this chapter and referenced regulations is to bring the city into compliance with Public Acts 1993, Chapter 433. This act requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees. It's the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (Ord. #93-04, Aug. 1993)

4-402. Enforcement. The chief administrative officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #93-04, Aug. 1993)

4-403. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on town business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the town. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the town for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the town. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

(5) The travel expense reimbursement form will be used to document all expense claims.

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

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

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

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

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

(8) Any person attempting to defraud the town or misuse town travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the town aren't ordinarily considered eligible expenses for reimbursement. (Ord. #93-04, Aug. 1993)

4-404. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed for actual expenses not to exceed the following rates:

Rooms	\$80.00 per day
Meals	\$35.00 per day
Tips	\$ 6.00 per day
Mileage	\$.32 per mile.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #93-04, Aug. 1993, modified)

4-405. Administrative procedures. The town adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the town recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (Ord. #93-04, Aug. 1993)

CHAPTER 5

SUBSTANCE ABUSE POLICY

SECTION

- 4-501. Statement of policy.
- 4-502. General rules.
- 4-503. Purpose of drug testing program.
- 4-504. Drug testing policy.
- 4-505. Right to a hearing.
- 4-506. Confidentiality of test results.
- 4-507. Laboratory testing requirements.
- 4-508. Operators of motor vehicles.

4-501. Statement of policy. Illegal and excessive use of drugs has become an epidemic in our nation. Any abuse and use at the workplace are subjects of immediate concern in our society, and in our community particularly. From a safety perspective, the users of drugs may impair the well being of all employees, the public at large, and result in damage to the town's property. Drug use may also seriously impair an employee's ability to perform his or her job and adversely effect the performance of other employees. Therefore, it is the policy to the Town of Bruceton, Tennessee, that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or intoxicants in the town's workplace is prohibited. Any employee violating this policy will be subject to discipline up to and including termination with prejudice. The specifics of this policy are as follows:

(1) A "workplace" of the Town of Bruceton is defined as any place, site or area wherein or whereon an employee may be performing his or her official duties, be it in a building, premise, vehicle or equipment, whether publicly or privately owned.

(2) The term "controlled substance" means any drug listed in 21 U.S.C. 812 and other federal regulations. Generally, these are drugs which have a high potential for abuse. Such drugs include, but are not limited to, Heroin, Marijuana, Cocaine, PCP, and "Crack." They also include "legal drugs" which are not prescribed by a licensed physician to an alleged violator.

(3) Each employee is required by law to inform the personnel officer within five (5) days after he or she is convicted for violation of any federal or state criminal drug statute where such violation occurred on town property. A conviction means finding of guilt (including a plea of nolo contendere) or the imposition of a sentence by a judge or jury in any federal or state court.

(4) The Town of Bruceton must then notify the appropriate government agency, if applicable, with which the grant contract was made within ten (10) days after receiving notice from the employee or otherwise receiving actual notice of such a conviction.

(5) If an employee is convicted of violating any criminal drug statute while on the workplace, he or she will be subject to discipline up to and including termination. Alternatively, the town may require the employee to successfully finish a drug abuse program sponsored by an approved private or governmental institution.

(6) As a condition of employment or continued employment by the town, the law requires all employees to abide by this policy. (Ord. #96-07, Nov. 1996)

4-502. General rules. (1) Town employees shall not take, or be under the influence of, any narcotics or dangerous substance unless prescribed by the employee's licensed physician. Employees who are required to take such prescription medicine should notify their immediate supervisors of the medication prescribed and the nature of the illness or injury.

(2) Town employees are prohibited from the use, possession and sale of drugs, alcohol or other intoxicants, or any other controlled substance on town property or in town vehicles.

(3) All property belonging to the town is subject to inspection at any time without notice as there is no expectation of privacy.

(a) Property includes, but is not limited to, vehicles, desks, containers, files, and storage lockers.

(b) Employees assigned lockers (that are locked by the employee) are also subject to inspection by the employee's supervisor after reasonable advance notice, (unless waived by the chief administrative officer) and in the presence of the employee.

(4) Town employees who have reason to believe another employee is illegally using drugs or narcotics, shall report the facts and circumstances immediately to the supervisor.

(5) Failure to comply with the intent or provisions of this general order may be used as ground for disciplinary action. (Ord. #96-07, Nov. 1996)

4-503. Purpose of drug testing program. The Town of Bruceton recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the Town of Bruceton to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the Town of Bruceton are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the Town of Bruceton has adopted this drug and alcohol testing policy. This policy complies with the: Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol and drug-free environment and to work with

persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are: pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random, return-to-duty, and follow-up.

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

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

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of such legally prescribed medication before the employee goes on duty or performs any work. (Ord. #96-07, Nov. 1996)

4-504. Drug testing policy. (1) Drugs to be tested for. When drug and alcohol screening is required under the provisions of this policy, a urinalysis test

will be given to detect the presence of the drug groups listed below. This list is not intended as an exhaustive inventory of every drug for which an employee can be tested. The selection of drugs subject to testing will be based upon known abuse in the community and the ability of each drug to affect job performance.

- (a) Alcohol (Ethyl)
- (b) Amphetamines (e.g. speed)
- (c) Barbiturates (e.g. Amobarbital, Butabarbital, Phenobarital, Secobarbital)
- (d) Cocaine
- (e) Methaqualone (e.g. Quaalude)
- (f) Opiates (e.g. Codeine, Heroin, Morphine, Hydromorphone, Hydrocodone)
- (g) Phencyclidine (PCP)
- (h) THC (Marijuana)

(2) Prior notice of testing policy. The town shall provide written notice of its drug and alcohol testing policy to all employees and job applicants. The notice shall contain the following information:

- (a) The need for drug and alcohol testing;
- (b) The circumstances under which testing may be required.
- (c) The procedures for confirming an initial positive drug test result;
- (d) The consequences of a confirmed positive test result;
- (e) The consequences of refusing to undergo a drug and alcohol test;
- (f) The right to explain a positive test result and the appeal procedures available; and
- (g) The availability of drug abuse counseling and referral services.

(3) Consent. Before a drug and alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those town officials with a need to know. The consent form shall provide a space for employees and applicants to acknowledge that they have been notified of the town's drug testing policy and to indicate current or recent use of prescription or over-the-counter medication. The consent form shall also set forth the following information:

- (a) The procedure for confirming an initial positive test result;
- (b) The consequences of a confirmed positive test result;
- (c) The right to explain a confirmed positive test result and the appeal procedures available; and
- (d) The consequences of refusing to undergo a drug and alcohol test.

(4) Job applicant testing; general standard. Applicants for all classes of employment with the town will be required to undergo a drug and alcohol test upon the offer of employment and prior to their final appointment.

(5) Current employee testing, general standard. (a) The town may require a current town employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during working hours. "Reasonable suspicion" means an articulate belief based on specific facts, and reasonable inferences drawn from those facts, that an employee is under the influence of drugs or alcohol. Circumstances which constitute a basis to determine "reasonable suspicion" may include, but are not limited to:

- (i) A pattern of abnormal or erratic behavior;
- (ii) Information provided by a reliable and credible source;
- (iii) A work-related accident;
- (iv) Direct observation of drug or alcohol use; or
- (v) Presence of the physical symptoms of drug or alcohol use (i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes).

(b) Supervisors are required to detail in writing, the specific facts, symptoms, or observations which formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded through appropriate department head or designated alternate to the personnel officer.

(6) Refusal to consent, applicant. A job applicant who refuses to consent to drug and alcohol test will be denied employment with the town.

(7) Refusal to consent, employees. An employee who refuses to consent to drug and alcohol test when reasonable suspicion of drug or alcohol use has been identified, is subject to disciplinary action up to and including termination. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action.

(8) Confirmation of test results. (a) An employee or job applicant whose drug test yields a positive result shall be given a second test using a gas chromatography/mass spectrometry test. The second test shall use a portion of the same test sample withdrawn from the employee or applicant for use in the first test.

(b) If the second test confirms the positive test result, the employee or applicant shall be notified of the results in writing by the appropriate department head or designated alternate. The letter of notification shall identify the particular substance found and its concentration level.

(c) An employee or applicant whose second test confirms the original positive test results may, at the employee's or applicant's own

expense, have a third test conducted on the same sample at a laboratory selected by the town.

(9) Consequences of a confirming positive test result, job applicants. Job applicants will be denied employment with the town if their initial positive test results have been confirmed. Applicants shall be informed in writing if they are rejected on the basis of confirmed positive drug test results.

(10) Consequences of a confirming positive test result, current employees. If a current employee's positive test result has been confirmed, the employee is subject to a disciplinary action up to and including termination. Factors to be considered in determining the appropriate disciplinary response include the employee's work history, length of employment, current job performance, and existence of past disciplinary actions. No disciplinary action may be taken against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation sanctioned by the town, and thereafter refrain from violating the town's policy on drug and alcohol abuse. (Ord. #96-07, Nov. 1996)

4-505. The right to a hearing. (1) If an employee's positive test results have been confirmed, the employee is entitled to a hearing before any disciplinary action may be taken by the town. The employee must make a written request for a hearing through the appropriate department head or designated alternate to the personnel officer within 15 days of receipt by the employee of the confirmation test results. Employees may be represented by legal counsel, present evidence and witnesses on their behalf, and confront and cross-examine the evidence and witnesses used against them.

(2) No adverse personnel action may be taken against an employee based on a confirmed positive test result unless the hearing officer finds by a preponderance of the evidence that:

(a) The employee's supervisor had reasonable suspicion to believe that the employee was under the influence of drugs or alcohol while on the job; and

(b) The employee's drug test result are accurate.

(3) Appeals shall be conducted pursuant to code § 4-222 and are final. (Ord. #96-07, Nov. 1996)

4-506. Confidentiality of test results. All information from an employee's or applicant's drug and alcohol test is confidential and only those individuals with a need to know are to be informed of the test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The result of a positive drug test shall not be released until the results are confirmed. The records of unconfirmed positive test results and negative test results shall be destroyed by the testing laboratory. (Ord. #96-07, Nov. 1996)

4-507. Laboratory testing requirements. All drug and alcohol testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the town. Factors to be considered by the town in selecting a testing facility include:

- (1) Testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;
- (2) Methods of analysis which ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results;
- (3) Chain-of-custody procedures which ensure proper identification, labeling, and handling of test samples; and
- (4) Retention and storage procedures which ensure reliable results on confirmatory test of original samples. (Ord. #96-07, Nov. 1996)

4-508. Operators of motor vehicles. The town further adopts by reference the policies, procedures and standards promulgated by the national safety alliance in accordance with the United States Department of Transportation Federal Highway Administration Regulations as to those employees who operate or propose to operate motor vehicles as a part of their employment. A current copy of those policies, procedures and standards shall be maintained by the town recorder and available for inspection to the public and employees of the town. Further the town recorder shall make available to each employee or to each new employee at the time of their employment by the town a copy of said policies, procedures and standards. Changes or modifications in those policies will be posted in a conspicuous location in the city hall of the Town of Bruceton. (Ord. #96-07, Nov. 1996)