

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

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

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4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the City of Hendersonville, Tennessee, to extend, as of the date hereinafter set forth, to the 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 said City of Hendersonville shall take such action as may be required by applicable federal or state laws or regulations. (Ord. #1975-20, Aug. 1975)

4-102. Necessary agreements to be executed. The mayor of the City of Hendersonville, Tennessee, is hereby authorized and directed to execute all necessary agreements and amendments thereto with the Director of Old Age and Survivors Insurance Agency, State of Tennessee, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (Ord. #1975-20, Aug. 1975)

4-103. Withholdings from salaries or wages. Withholdings from 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 federal or state laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (Ord. #1975-20, Aug. 1975)

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; which shall be paid over to the state or federal agency designated by said laws or regulations. (Ord. #1975-20, Aug. 1975)

4-105. Records and reports. The City of Hendersonville shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (Ord. #1975-20, Aug. 1975)

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 said City of Hendersonville or any employee, official or position not authorized to be covered under applicable state or federal laws or regulations.

The mayor is authorized to execute an amendment to said agreement between the director of the Department of Old Age and Survivors Insurance Agency of the State of Tennessee and the City of Hendersonville, dated August 15, 1975, to exclude from coverage under the Federal System of Old Age, Survivors, Disability, Health Insurance, the services of an election worker if the remuneration paid for such services in a calendar year is less than \$1,000 on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount 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. This exclusion to be effective in and after a calendar year in which a state's modification is mailed, or delivered by other means, to the appropriate federal official. (Ord. #1975-20, Aug. 1975, as amended by Ord. #1995-12, May 1995)

CHAPTER 2**PERSONNEL MERIT SYSTEM****SECTION**

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4-201. General provisions. (1) This chapter shall be known as the "Personnel Ordinance."

(2) A Personnel System for the City of Hendersonville is hereby established for the purpose of providing a personnel policy under which entry into and continuance in the service of the city shall be on the basis of merit, efficiency, and fitness, free of personal and political considerations.

(3) It is hereby the declared personnel policy of the city that:

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

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

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

(d) Appointments, promotions and other personnel actions requiring the application of the merit principle shall be based on systematic tests and evaluations.

(e) Every effort shall be made to stimulate high morale by fair administration of this chapter and by every consideration of the rights and interests of employees, consistent with the best interests of the public and the city.

(f) Tenure of employees covered by this chapter shall be subject to good behavior, satisfactory performance of work, necessity for the performance of work, and availability of funds. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994)

4-202. Definitions. As used in this chapter, the following quoted words and terms shall have the meanings enumerated hereinafter:

(1) "Municipality" or "City" shall mean the City of Hendersonville, Tennessee.

(2) "Mayor" shall mean the duly elected mayor of the City of Hendersonville, Tennessee.

(3) "Governing body," shall mean the board of mayor and aldermen vested with power to enact ordinances and resolutions for the City of Hendersonville, Tennessee.

(4) The words, terms and phrases when used shall have the same meanings ascribed in Rule II, definition section of the Personnel Rules and Regulations which are on file in the city recorder's office, except where the context clearly indicates a different meaning. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994, modified)

4-203. Coverage. (1) All offices and positions of the city are divided into the classified service and the exempt service. The classified service hereinafter referred to as the "Classified Service", shall include positions in the city services which are not specifically placed in the exempt service by this chapter. All offices and positions of the city specifically placed in the exempt service shall be as follows:

(a) All officials elected by popular vote, and persons appointed to fill vacancies in any such elective offices.

(b) Department heads and key staff officials, including all direct assistants to the mayor.

(c) Members of appointive boards, commissions or committees.

(d) Employees of a utility under an appointive board or commission, unless the utility board of commission requests that they be covered.

(e) Persons employed to render the city expert, professional, technical or other services of occasional character.

(f) Volunteer personnel, such as volunteer firemen; and all other personnel appointed to serve without compensation.

(g) City attorney and assistant city attorneys.

(h) Persons employed by the city for not more than three (3) months during a fiscal year for special purposes and seasonal work or persons hired under temporary funding from any subsidized or funded programs.

(i) Part-time employees identified on Salary Schedule "B" and "C" or employees designated as "temporary."

(j) Employees who are hired to meet the immediate requirements of an emergency condition, such as fire, flood, earthquake, riots, etc., which threatens life or property.

(k) Persons serving the city as independent contractors.

(l) Persons retained as consultants.

(m) Persons jointly employed by the municipality and some other governmental agency.

(n) City judge.

(2) The following sections of this chapter shall apply only to the classified service unless otherwise specifically provided. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994)

4-204. Administration. (1) The mayor shall have the basic responsibility for the personnel program as set forth in this chapter. The mayor specifically shall:

(a) Be responsible for effective personnel administration;

(b) Appoint a human resources manager who shall be responsible for the administration and technical direction of the city's personnel program, with said appointment being subject to the approval of the board of mayor and aldermen;

(c) Appoint, remove, suspend, and discipline all officers and employees of the city subject to the policies as set forth in this chapter, provisions of the charter, and those in state law; or the mayor may, at the mayor's discretion, authorize the head of the department or office responsible to the mayor to appoint and terminate subordinates in such departments and offices;

(d) Fix and establish the number of employees in the various city departments and offices and determine the duties, authority, responsibility and compensation in accordance with the policies and provisions set forth in this chapter and the city charter; and subject to budget limitations;

(e) Perform such other duties and exercise such other power in personnel administration as may be prescribed by law and this chapter.

(2) The mayor shall appoint a human resources manager as set forth above, which director shall:

(a) Administer under the direction of the mayor, the personnel program as set forth in this chapter and the personnel rules;

(b) Perform all necessary duties essential to the effective administration of the personnel system and serve as a secretary to the personnel board, but shall have no vote;

- (c) Recommend to the mayor rules and revisions and amendments thereto;
- (d) Recommend to the mayor a position classification plan for approval by the governing body, and install and maintain such a plan;
- (e) Prepare and recommend to the mayor a pay plan for all city employees for the governing body approval;
- (f) Establish and maintain a roster of all persons in the municipal service setting forth each officer and employee, class title of their position, salary, and changes in class title, status, and such other data as may be deemed desirable or useful;
- (g) Develop and administer such recruiting and examining programs as deemed necessary by the mayor to obtain an adequate supply of competent applicants to meet the needs of the city;
- (h) Be responsible for certification of all payrolls in matters concerning personnel administration;
- (i) Develop and coordinate training, evaluation, and educational programs for city employees;
- (j) Investigate periodically the operation and effect of the personnel provisions of this chapter and the rules, and at least annually report their findings and recommendations to the mayor;
- (k) Maintain adequate personnel records to include for each employee the class, title, pay and other relevant data;
- (l) Advise the mayor on manpower utilization;
- (m) Foster and develop programs for the improvement of personnel effectiveness, including training, safety, health, counseling and welfare;
- (n) Encourage and exercise leadership in the development of an effective personnel system for the city; and
- (o) Perform such other duties as may be assigned by the mayor not inconsistent with this chapter.

(3) A personnel board, hereinafter referred to as "personnel board", or "board", which shall consist of eleven (11) members, is hereby created. Six (6) members shall be appointed by the governing body (one from each ward), four (4) shall be nominated and elected by the city employees in the classified service, and one (1) member shall be appointed by the mayor. Each member shall be appointed for a full five (5) year term. Vacancies occurring prior to the end of a term shall be filled in the same manner as the original appointments were made. Members appointed to fill the same shall hold under such appointment only for the unexpired term. Members shall be elected and appointed in June of each year and shall take office on July 1, next following. No elected official or employee of the city shall be eligible for membership on the board.

- (a) The board shall organize by electing one of its members chairman and another of its members vice chairman, and shall hold meetings at such times and

places as shall be specified by call of the chairman or a majority of the board members as may be required for the proper discharge of its duties. All hearings shall be open to the public. The board's officers shall serve for a term of two (2) years, or until their terms of office expire, whichever occurs first.

(b) Members of the personnel board shall serve without compensation, but funds will be provided for actual and necessary expenses incurred in the discharge of their responsibilities. The mayor, with approval of the governing body, shall provide the board with suitable and convenient rooms and accommodations, and with office supplies and equipment necessary to carry on the board's business, and shall provide the funds for such clerical, administrative, and legal assistance as may be necessary for the board to carry out its duties. Within the amount budgeted for such purpose the board shall have authority to employ such personnel. The mayor may assign personnel of the city to assist the board upon mutual agreement.

(c) The members of the board shall be qualified electors of the city, and shall be in sympathy with the application of merit principles to public employment.

(d) For all appointments subsequent to September 1, 2003 no member of the personnel board shall hold any elective municipal office or any other appointed municipal office or any other employment in the city or be a member of the immediate family of anyone who holds any elective municipal office or any other appointed municipal office or employee in the city. Any member of the personnel board, upon qualifying to run for public office, shall take a temporary leave of absence from the board until after the election, and if elected to office shall immediately resign from board. "Immediate family" as used in this section means (spouse, in-laws, (refers to mother, father, sister, brother, son and daughter), parents, children, brother or sister, grandparents and grandchildren)".

(e) A member of the personnel board shall be removable by the governing body for cause, expressly including failure to attend three (3) of any seven consecutive meetings without justification.

(f) A member who is appointed as a ward representative forfeits that member's position on the board upon changing residence to a place outside of the ward being represented, but shall be allowed to serve until a replacement is appointed; each member of the board is responsible for notifying the human resources manager upon any change of residence.

(g) The personnel board shall have the following duties and powers:

(i) Hear appeals of any employee in the classified service relative to suspension, demotion, dismissal, and other matters in which the employee feels grieved as provided, and in the manner provided, in the personnel rules. The personnel board may revoke, modify, or sustain the action being appealed. The personnel board shall have the right of subpoena, the power to examine witnesses under oath, the power to compel the attendance of

witnesses, and the power to require the production of evidence by subpoena. During such review, both the appealing employee and the appointing authority or other persons whose action is being reviewed shall have the right to be heard publicly, be represented by a person of his choice, and to present evidentiary facts. At the hearing of such appeals or grievances, technical rules of evidence shall not apply. All appeals shall be concluded as expeditiously as possible and in accordance with the requirements and procedures as set forth in the personnel rules adopted pursuant to this chapter.

The decisions of the personnel board in such cases shall be final, except with respect to terminations, of which the mayor makes the final decision. Notwithstanding the provisions of this chapter, the personnel board shall have no authority to make any decision requiring the expenditure of municipal funds, unless funds for such purpose are expressly appropriated by the governing body.

(ii) Represent the public interest in the improvement of personnel administration in the city service.

(iii) Advise the governing body, mayor and the human resources manager on problems concerning personnel administration.

(4) Nomination and election of four (4) members of the board by the classified service employees shall be conducted in the following manner:

(a) Not less than thirty (30) days prior to the expiration of the term of the elected members, or immediately upon resignation or removal, the mayor shall notify all employees in the classified service that the mayor will receive nominations of persons to be elected for a designated period of five (5) working days. Such notification shall contain the qualifications for members of the personnel board as set out in § 4-204(3). Any full-time employee in the classified service may submit his nomination during the designated period. All nominees must possess the qualifications as set out in § 4-204(3).

(b) At the expiration of the designated period of five (5) working days and not more than ten (10) working days from such notification, the human resources manager shall then prepare in the presence of two (2) employees of the classified service, selected by the human resources manager at random, appropriate ballots for vote by all the full-time employees of the classified service. The ballots shall contain all the names of those persons so nominated who possess the appropriate qualifications heretofore mentioned.

(c) The vote shall be by secret ballot to be conducted immediately upon completion of the appropriate ballots. The human resources manager shall coordinate voting time, scheduling and check-off through the department heads. At the expiration of the designated time for voting, the human resources manager shall immediately thereafter tabulate the votes in the presence of said two (2) employees

selected at random and certify to the governing body for appointment to the personnel board the person(s) receiving the highest number of votes after having contacted such person(s) in the presence of said employees selected at random to determine if they will serve. Should the person(s) contacted choose not to serve, the next person(s) receiving the highest number of votes shall be contacted until the person(s) is/are selected and so certified or the list is depleted. Should the list be depleted, the same procedure as outlined above for nomination and election shall again be followed.

(d) All the provisions as set out in § 4-204(3), shall be strictly adhered to as they apply to § 4-204(4). (Ord. #1976-14, July 1976, as amended by Ord. #1987-19, April 1987, Ord. #1989-13, April 1989, Ord. #1994-6, Jan. 1994, and Ord. #1994-30, Dec. 1994, Ord. # 2003-45, September, 2003)

4-205. Personnel rules. (1) The personnel board shall be responsible for the preparation of a recommended set of rules as may be necessary to carry out the provisions of this chapter to be submitted to the mayor for adoption, with said rules to be applicable to all employees in the classified service. The mayor, in consultation with the human resources manager, shall be responsible for the adoption of such personnel rules and amendments thereto as may be necessary to carry out the provisions of this chapter, except as provided in § 4-207, within thirty (30) days thereafter. Amendments to the personnel rules shall be made in accordance with the above procedure; provided, however, that as an alternative method of amendment, the governing body may amend the rules by resolution receiving a majority vote of the entire membership of the governing body.

(2) The personnel rules shall establish regulations, specific procedures, and policies governing the personnel system including but shall not be limited to the following:

(a) Administration of a position classification plan covering all position in the classified service, including employment standards and minimum qualifications for each class;

(b) Administration of a plan of compensation directly correlated with the position classification plan, providing a rate or range of pay for each class;

(c) The acceptance of applications for employment;

(d) The preparation, announcement and conduction of examinations, if deemed necessary by the mayor;

(e) Establishment and use of employment lists containing names of persons eligible for appointment;

(f) Certification and appointment of persons from employment lists to fill vacancies, and the making of provisional, temporary, casual, and emergency appointments;

(g) Evaluation of the work of employees including those serving a probationary period;

- (h) Transfer, promotion and reinstatement of employees in the competitive service;
- (i) Disciplinary action, demotion, suspension, and separation from the service of employees by resignation, layoff, separation, dismissal and for incapacity to perform required duties;
- (j) Standardization of hours of work, attendance and leave regulations, and working conditions;
- (k) Development of employee morale, welfare and training programs;
- (l) A uniform system of procedure for the handling of all grievances and appeals;
- (m) Vacations, holidays, paid and unpaid leaves, and other fringe benefits;
- (n) Promotional policies and procedures.
- (o) Establishment, maintenance, and use of adequate and necessary personnel records and forms; and
- (p) Such other matters as may be necessary and proper to carry out the intent and purpose of this chapter. (Ord. #1976-14, July 1976, as amended by Ord. #1988-85, Sept. 1988, and Ord. #1994-30, Dec. 1994)

4-206. Classification. (1) The human resources manager shall make an analysis of the duties, authority, and responsibility of all positions in the classified service and shall recommend to the mayor for adoption by the governing body a position classification plan. Each position in the classified service shall be assigned to a job classification on the basis of its kind and level of its duties and responsibilities, to the end that all positions in the same class shall be sufficiently alike to permit use of a single descriptive class title, the same qualifications, requirements, the same tests of competence, and the same pay scale. A job class may contain one position or more than one position.

(2) The board of mayor and aldermen shall adopt a classification plan by resolution. The human resources manager shall thereafter allocate each position to its appropriate class, subject to the approval of the board of mayor and aldermen. When the duties and responsibilities of a particular position change or when a new position is created, the human resources manager shall recommend the appropriate classification for the revised or new position, subject to the approval of the board of mayor and aldermen and subject to the fiscal constraints of amounts budgeted for salaries and benefits in the particular department involved. The human resources manager shall consult with the appropriate department head in making all such classifications. Revisions in the classification plan shall be presented to the board of mayor and aldermen by resolution.

(3) The class to which each position is initially allocated shall be the class in which the employee shall have status conferred on him by § 4-213.

(4) The initial class plan shall be revised from time to time as changing conditions require, upon recommendation of the human resources manager to the mayor, and with the approval of the governing body in accordance with the provision as set out in § 4-206(2), with review of the plan at least every five (5) years. (Ord. #1976-14, July 1976,

as amended by Ord. #1988-109, Dec. 1988, Ord. #1990-77, Jan. 1991, and Ord. #1994-30, Dec. 1994, Ord. 2004-24, June, 2004)

4-207. Compensation. (1) The human resources manager, under the direction of the mayor and in consultation with the finance director, shall develop a uniform and equitable pay plan consisting of minimum, intermediate, and maximum rate of pay for each class of positions. Salary ranges for each class shall be coordinated with the position classification plan and shall be based on the ranges of pay for other classes, requisite qualifications, general rates of pay for comparable work in other public and private employment in the area, cost of living data, maintenance or other benefits received by employees, the financial policy of the city, and other economic considerations. The pay plan shall then be submitted to the governing body for adoption.

(2) The governing body shall:

(a) Adopt the plan of compensation, or

(b) Adopt the same without modifying the plan except by uniform modification of all classes, or

(c) Reject the same.

When a plan of compensation is rejected by the governing body, it shall be returned to the mayor accompanied by recommendations. The human resources manager shall thereupon formulate another plan of compensation in accordance with § 4-207(1). Upon approval of the plan by the governing body, it shall be the plan of compensation under which all members of the classified service may be paid.

(3) After the pay plan has been adopted by the governing body, the human resources manager shall assign each job class to one of the pay ranges provided in the pay plan.

(4) The pay plan may be amended from time to time as circumstances require in accordance with the provisions as set out in § 4-207(1) and (2).

(5) On the effective date of a new or revised pay plan, the pay of employees receiving less than the minimum rate for their class shall be increased to the minimum rate of the salary range. Employees receiving more than the maximum rate of their class shall continue to receive that higher rate. Employees whose salary rates fall at any step in the range for the position shall continue at that rate. Rates at other than an established step of the salary range shall be increased to the next higher step. (Ord. #1976-14, July 1976, as amended by Ord. #1985-36, Nov. 1985, and Ord. #1994-30, Dec. 1994)

4-208. Appointments. Appointments to positions in the classified service shall be made in accordance with this chapter and the personnel rules. Appointments and promotions shall be based on merit, efficiency, and fitness to be ascertained so far as practicable by competitive evaluations as deemed necessary by the mayor. Examination, when used and conducted to aid in the selection techniques, shall test fairly the qualifications of candidates in relation to class specifications. Such tests may include

written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, or any combination of these or other tests as approved by the mayor. Physical agility tests may be given as a part of any examination. The mayor may include, in addition to competitive tests, a qualifying test or tests, and set minimum standards therefore. The personnel rules shall include, but not be limited to, the following appointment procedures:

(1) An orderly and systematic method of recruitment to insure that all those employed will be hired on the basis of merit, efficiency, and fitness without in any way being favored or discriminated against because of race, color, ancestry, sex, national origin, religious belief, disability or any personal or political opinions or affiliations, and to provide for the establishment of qualified lists for employment purposes.

(2) In the absence of an appropriate certified employment list of qualified candidates, a provisional appointment may be made by the appointing authority, provided that employment lists shall be established for any such position within six (6) months. A provisional employee may serve only until the human resources manager shall certify to the appointing authority a qualified candidate, or candidates, and may be removed at any time without charges, right of appeal and hearing. No person shall be employed by the city under provisional appointment for a total of more than six (6) months, except during the period of suspension of an employee or pending final action on proceedings to review suspension, demotion, or dismissal of an employee (such vacancy created may be filled by the appointing authority only by provisional appointment subject to the provisions of this chapter and the personnel rules); and

(3) In the event of emergency, the appointing authority may appoint such persons as are required to meet the situation but such appointment shall not exceed thirty (30) days in any twelve (12) month fiscal year. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994)

4-209. Eligible lists. (1) The human resources manager shall establish and maintain such employment lists of the various classes of positions in the city services as are necessary to meet the needs of the service.

(2) Eligible lists, in the order of their priority shall be re-employment lists, promotional eligible lists, and original appointment eligible lists.

(a) Re-employment lists shall be created as follows:

(i) Names of persons being placed on re-employment lists shall be in order of total cumulative time served in probationary and regular status, and shall remain on such lists for a period of one (1) year unless a person no longer seeks employment with the city, or the human resources manager determines that the person has ceased to have the qualifications for the class of positions.

(ii) The names of probationary and regular employees laid off in good standing for lack of funds or work shall, at the request of the employee,

be placed upon re-employment lists for classes which, in the opinion of the human resources manager, require basically the same qualifications, duties and responsibilities as those of the class of positions from which lay-off was made.

(b) Promotional eligible lists, and original appointment eligible lists shall be created in accordance with the provisions of §§ 4-208 and 4-209, and as follows: names of applicants be placed upon the appropriate eligible lists in the relative order of their final rating (with the exception of re-employment lists as provided in § 4-209(2)(a) above). Eligible applicants obtaining the same score shall be considered to have the same rank on the eligibility list, all other things being equal.

(c) Policy and procedures for administering eligible lists shall be provided in the personnel rules; covering the duration, cancellation, replacement, and consolidation of such lists, and the removal or suspension of the names of eligibles therefrom. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994)

4-210. Certification. When an appointment is to be made to fill a position in the classified service, the human resources manager, upon requisition, shall first certify to the appointing authority a list of the qualified candidates, with a minimum of three (3) candidates from the appropriate re-employment list. On any certification list, when more than one vacancy is to be filled, the minimum number of names submitted shall equal the number of vacancies plus at least two (2) additional names. The appointing authority shall then fill the position or positions from those persons on the re-employment list. If no appropriate re-employment list exists, the human resources manager shall then certify to the appointing authority a list of at least the top three (3) qualified candidates on an appropriate promotion list; the appointing authority may then appoint from the promotion list, or recruit from outside the municipal service, in the discretion of the appointing authority. No permanent appointment may be made without such certification, except for promotions. With respect to promotions, when only one or two current employees meet the qualifications for a position, the appointing authority, with the approval of the Mayor, may promote one such employee, with the certified list for the promotion having either one or two candidates, as applicable; otherwise, recruitment must be made from outside the municipal service.

The Personnel Rules and Regulations of the City of Hendersonville, Tennessee, are hereby amended, as necessary, to conform to the provisions of this ordinance. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994, Ord. 2007-8, February 2007)

4-211. Veteran's preference. The personnel rules shall provide for the allowance of veteran's preference points in accordance with the city charter, state, and federal law requirements. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994)

4-212. Probationary period. The personnel rules shall provide that all regular appointments shall be for a probationary period of six (6) months. During the probationary period, an employee may be rejected at any time without charges, right of appeal and hearing. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994, Ord. # 2000-10, June 2000)

4-213. Status of present employees. Any person holding a position included in the classified service who, on the date that this chapter becomes operational, shall have served continuously in such position, or in some other position in the classified service, for a period equal to the probationary period, shall continue status in the classified service, in the position held on such effective date without qualifying test and shall thereafter be subject in all respects to the provisions of this chapter and the personnel rules. Other persons holding positions in the classified service shall be regarded as probationers who are serving out the remainder of their probationary periods before obtaining classified service status, and may be certified in the same manner when they satisfactorily complete regular work test period. The probationary period shall be computed from the date of appointment or employment to a permanent position. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994)

4-214. Promotions. Vacancies in positions above the entrance shall be filled by promotion whenever in the judgment of the mayor it is in the best interest of the city to do so. Promotions shall be on a competitive basis and shall give appropriate consideration to the applicants' qualifications. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994)

4-215. Demotions, suspensions and dismissals. (1) The appointing authority may demote, dismiss, reduce in pay, or suspend without pay for not more than thirty (30) calendar days, in any calendar year (except that extensions may be made as provided in this chapter and the rules pending any investigation and hearing), an employee in the classified service for any one or more of, but shall not be limited to, the following reasons:

(a) Dishonesty, intemperance, immoral conduct, insubordination, unsatisfactory performance of duties, failure to adhere to rules or other written instructions, any other act of omission or commission tending to injure the public service, any other willful failure on the part of the employee to conduct himself properly, or any willful violation of the provisions of this chapter or the personnel rules adopted thereunder.

(b) Conviction of a felony, a misdemeanor involving moral turpitude, or a misdemeanor reflecting upon ability to perform public service or for which a jail sentence is imposed.

(c) Any other act or failure to act as set out in this chapter and the rules, which, in the judgment of the appointing authority, is sufficient to show that the person is an unsuitable and unfit employee.

(2) Notice of such action must be in writing and served personally on such employee, except where an emergency situation exists, in which case the notice shall be served within three (3) working days of the action taken. Such notice shall specify the penalty and contain a statement of the charges or reasons for the action taken. The provisions of this section shall not apply to reductions in pay which are a part of a general plan to reduce salaries and wages or to eliminate positions. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994)

4-216. Reductions in workforce. Nothing herein shall be construed as affecting the power of the governing body to abolish positions in the classified service. Employees transferred, demoted or laid off because of the abolishment of positions, shall have the right of appeal and hearing in such cases. Seniority shall be observed in affecting such reduction in personnel and the order of lay-off shall be in the reverse order of total cumulative time served in the classified service upon the effective date of the lay-off. Lay-off shall be made within classes of positions, and all provisional employees in the effected class or classes shall be laid off prior to the lay-off of any probationary or regular employee. For the purpose of determining order of lay-off, total cumulative time shall include time served on military leave of absence. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994)

4-217. Appeals. This chapter and the rules adopted thereunder, shall hereby grant to any regular employee in the classified service the right to appeal to the personnel board for review any disciplinary action such as reprimand, suspension, demotion, and dismissal; any interpretation or alleged violation of this chapter, and the rules; except in those instances where the right of appeal is specifically denied by this chapter. The personnel rules and regulations shall establish the appeal procedure. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994)

4-218. Political activity. All employees in the classified service shall not while in the employment of the municipal government:

(1) Seek or accept election to any city office. Any employee who wishes to accept or seek election or appointment to political office shall resign from the service upon indicating such intention by formal declaration or other evidence of candidacy.

(2) Any person elected to public office within the city shall not, during the term for which he was elected, be appointed to any other position in the city unless otherwise specified in the charter.

(3) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position, or demotion or dismissal from a position in the classified service.

(4) Nothing in this chapter shall in any way preclude the employee's right to privately express their opinions and cast their vote, to prevent any such employee from

becoming or continuing to be a member of a political organization, or from attending any political meeting.

(5) Any willful violation, or violation through culpable negligence, of any of the above prohibitions shall be sufficient grounds for the discharge of any employee guilty of such violation.

No employee in the classified service shall engage in political activity, support or opposition to any candidate, party or measure in any election when on duty or acting in an official capacity. When off duty and acting as a private citizen, no such employee shall be prohibited from engaging in political activity or denied the right to refrain from engaging in such activity. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994, Ord 2002-11, March, 2002)

4-219. Records. The human resources manager shall maintain, as a minimum, adequate records of the proceedings of the personnel board, of official ordinances and resolutions affecting personnel administration, of personnel rules, and of the employment record of every employee. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994)

4-220. Discrimination. No person in the classified service or seeking admission thereto, shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of race, color, creed, national origin, sex, ancestry, age, disability, or religious belief. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994)

4-221. Provision for review. It shall be the duty of the mayor to review or modify any action taken by the human resources manager to properly carry out the intent of this chapter. (Ord. #1976-14, July 1976, as amended by Ord. #1994-30, Dec. 1994)

CHAPTER 3

COMPREHENSIVE CLASSIFICATION AND COMPENSATION PLAN

SECTION

- 4-301. Definition and adoption of the classification plan.
- 4-302. Definition and adoption of the compensation plan.
- 4-303. Pay benefits for public safety employees.
- 4-304. Administration of the compensation plan.
- 4-305. Compensation limited by appropriations.
- 4-306. Repeal of conflicting Code provisions.

4-301. Definition and adoption of the classification plan.

(1) Classification of positions. All positions in the city service designated by the board of mayor and aldermen shall be grouped into classes, and each class shall include those positions sufficiently similar in respect to their duties and responsibilities so that similar titles, and requirements as to training, experience, and the same rates of compensation are applicable thereto. These positions shall be known as classified positions of the city.

(2) Class specifications. Class specifications, which state the main characteristics of the class, give examples of typical duties performed in positions of the class, and establish the qualifications required for successful performance in such positions, shall be prepared and maintained for all classes. The class specifications shall be descriptive and explanatory but not restrictive. The listing of particular examples of duties shall not preclude the assignment of other duties by the department heads concerned. A class specification shall be considered in its entirety and in relation to other class specifications in determining the class to which a position should be allocated.

(3) Adoption of the classification plan. The classification plan shall be adopted by the board of mayor and aldermen as set forth in the Hendersonville Municipal Code, Title 4, Chapter 2.

4-302. Definition and adoption of the compensation plan.

(1) The salary schedules as adopted shall apply to full time and regular part time employees whose salary shall be prorated according to the hours worked. Part time seasonal employees shall continue to be paid according to temporary seasonal salary schedule.

The schedules of pay rates, the provisions of the chapter for the administration thereof, and the benefits and other provisions shall comprise the compensation plan. Upon initial implementation of the 2004 pay plan as set forth in the schedules the following step increases shall be awarded to employees:

7 or more years of service	3 steps
4-6 years of service	2 steps
1-3 years of service	1 step

After initial placement into the 2004 pay plan, any employee that receives a pay increase less than 2.1% of their current pay shall be advanced one step in their new pay grade.

(a) For the sole purpose of determining years of service as required by 4-302(1) for equity steps upon initial implementation of the pay plan, years of service shall be computed as of July 15, 2004.

(2) Full-time basis of salary schedules. The rates of pay prescribed herein are based on full-time employment at normal working hours for the respective classes of positions as indicated in the occupational list of class titles; provided however that the salaries of positions which are exempt according to the Fair Labor Standards Act are fixed according to the responsibilities to be fulfilled and are not based on a fixed number of hours per week and shall not be adjusted with variations in work schedules, unless part time employment is specifically provided.

(3) Time basis for payment of hourly rates. Employees in classes of positions indicated as part-time or seasonal in § 4-301(3) shall be paid the hourly rates prescribed herein for the respective classes of positions for time actually worked, based on the normal working hours established by the department head with the approval of the board of mayor and aldermen.

(4) Adoption of the salary and wage schedules. The salary and wage schedules as set forth in the salary schedule for general and the salary schedule for public safety and the temporary seasonal salary schedule are hereby adopted.

(5) Assignment to Higher Rated Position- In the event of a vacancy in a position which is anticipated to exceed a month's duration, an employee may be temporarily assigned to that position (not to exceed one year) and paid at the step in the range which is closest to his or her current pay which results in a pay increase of at least 5%.

(6) Education attainment. Employees who have or attain educational degrees directly pertinent to their assignments and where such degrees are not part of the minimum qualifications for their classes shall receive additional pay step increments regardless of current placement on their respective steps as follows:

<u>Required Education</u>	<u>Pertinent Possessed Education</u>			
	<u>Associate's</u>	<u>Bachelor's</u>	<u>Master's or Doctor's</u>	<u>Master's and Doctor's</u>
High School	+2 ½ %	+5 %	+7 ½ %	+10 %
Associate's	---	+2 ½ %	+5 %	+7 ½ %
Bachelor's	---	---	+2 ½ %	+5 %
Master's	---	---	—	+2 ½ %

The City's policy with respect to reimbursement of college tuition shall be limited to college course work, expressly excluding professional schools. Only degrees issued by institutions accredited by one of the six regional accrediting agencies, recognized by the Council for Higher Education Accreditation, qualify for education attainment pay or tuition reimbursement; provided, however, that Information Technology personnel may qualify for education attainment with degrees from schools not recognized by the Council for Higher Education Accreditation so long as such

schools are accredited by the Accrediting Commission of Career Schools and Colleges of Technology or a similar accrediting agency which is listed by the United States Department of Education as a nationally recognized accrediting agency.

4-303. Pay Benefits for Public Safety Employees. (1) Shift differentials. (a) Regular shifts. All non-exempt police department employees shall receive additional pay while assigned on a regular, long-term basis to either of the following shifts in the following amounts:

(i) Second shift. Plus thirty cents (\$0.30) per hour while so assigned.

(ii) Third shift. Plus forty cents (\$0.40) per hour while so assigned.

(iii) Rotating shifts. All employees who rotate shifts on a regular basis shall receive additional pay in the amount of twenty-seven cents (\$0.27) per hour; this amount represents a weighted average based on established shift patterns and is in lieu of the shift differential paid qualifying employees regularly assigned to either the second or third shift.

(2) H.E.A.T. assignments. Police department employees who are members of the H.E.A.T. team shall receive \$35 per month while so assigned.

(3) Motorcycle assignment. Police Department employees who operate motorcycles or bicycles during their shifts of work shall receive an additional sixty-five dollars (\$65.00) per month while so assigned. (Ord. # 2007-39, October 2007)

(4) Emergency Medical Technician and Paramedic Certification. Firefighters and certified police officers who have or attain and maintain E.M.T. certification shall receive an additional \$100 per month. Firefighters and certified police officers who have or attain and maintain paramedic certification shall receive an additional \$140 a month. A firefighter or certified police officer may receive either EMT or Paramedic pay, but not both.

(5) Call back. Occurs when non-exempt employees are "called back to work" by their department head due to a bona fide emergency (accident, fire, flood, snow, civil disturbance, acts of God or related) after completing their scheduled tour of duty and have returned home. Employees called back will be credited with a minimum of 2 work hours or the hours actually worked (including up to 30 minutes travel time) whichever is greater. Credited hours will count toward the overtime threshold.

(6) Court time. Whenever any employee in the non-exempt category is required to attend court in connection with their official duties, that time counts toward their hours worked. If they are required to attend court on scheduled time off, that time shall be compensated at the rate of 1 ½ times their regular rate and a minimum of two hours credit given.

(7) Uniform Allowance. A uniform allowance of \$700 per fiscal year is established for Criminal Investigators. Receipts are required for reimbursements.

(8) Hazardous Materials (HazMat) Technician Certification. Firefighters who have or attain and maintain HazMat Technician Certification shall receive an additional \$75 per month.

4-304. Administration of the compensation plan. (1) Entrance salary rates. (a) Starting rate on initial employment. Original appointment to any position shall be made at the entrance rate and advancement from the entrance rate to the maximum rate within a pay range shall be by successive steps based upon performance. Upon recommendation of the department head and

appropriate approval, initial compensation at the rate higher than the minimum rate in the pay range for the class may be made when the needs of the service so require; provided that any such exception is based on the outstanding and unusual character of the employee's experience and ability over and above the qualification requirements specified for the class, or that a critical shortage of applicants exists. In the latter case, any incumbents in the same department and position receiving a lower rate shall have their rates increased to the rate established for entrance of new employees.

(b) Starting rate on return to duty. When an employee returns to duty in the same class of positions after a separation from the city service of not more than one year, which separation was not

due to discreditable circumstances, such employee shall receive the rate in the pay range at the step corresponding to the step of the rate received at the time of separation.

(c) Starting rate on return from military service. Any employee who leaves or has left the city service to enter the active service of the Armed Forces of the United States, and who subsequently is reinstated to a position previously held by him, shall be entitled to receive the rate of compensation at the step to which he would have been entitled had his service with the city not been interrupted by service in the armed forces.

(2) Probationary period. After initial appointment to a position covered by this chapter, the first six months of service in the position to which appointed shall be considered the period of probation. In the event the employee does not satisfactorily complete his probationary period, he shall be separated from the service.

(3) Movement through salary schedule grade ranges. Movement through ranges shall be made on the basis of performance. To reward performance the following for full and part time regular employees shall apply:

(a) Rate of pay on promotion. In any case where an employee is promoted, the rate shall be at the step in the higher class which provides a rate of pay closest to a 7.5% increase over the rate received immediately prior to such promotion.

(b) Annual Merit Raises. Movement through pay ranges shall be made on the basis of performance. To reward performance the following for full and part time regular employees shall apply:

(i) An increase of one pay step based on the employee's performance in which the incumbent receives a "meets" or "exceeds" performance standard on their annual performance evaluations conducted on their service anniversary date. No employee can be advanced beyond the maximum step in their respective pay range. An employee who reaches the maximum step in their respective pay range will continue to receive cost of living adjustments, education attainment pay, H.E.A.T., motorcycle pay, EMT, paramedic pay, etc. in addition to the maximum step.

(ii) Performance evaluations will be completed and forwarded to the Personnel Office in the month of the employee's service anniversary date. Service anniversary date is defined as the date of hire; adjusted to account for any unpaid periods of employment. Service anniversary dates for part-time employees will reflect one year's annual equivalence.

(iii) The pay increase will become effective the pay period following the employee's service anniversary date.

(c) Longevity pay. Starting with the second year of full-time, year-round employment, employees shall receive a bonus of \$95/year for employment to a maximum of 20 years of service.

Part-time/seasonal workers likewise shall be given this award if their recurring service amounts to the necessary full-time equivalent years of service.

(4) Requirements as to continuity of service. Service requirements for advancement within pay ranges and for other purposes as specified in this chapter shall have the implication of continuous service, which means employment in the city service without break or interruption. All leaves of absence with pay and leaves without pay of ten or less days shall not interrupt continuous service nor be deducted therefrom. Absences of leave without pay in excess of ten days, except for extended service with the Armed Forces of the United States, shall be deducted in computing total service but shall not serve to interrupt continuous service.

(5) Any non-exempt employee, who in a given work period is required to work more hours than the applicable overtime threshold for his category and who actually works within said period hours exceeding said threshold shall be compensated for hours that exceed his overtime threshold in money rather than compensatory time, unless the employee elects to receive compensatory time instead. Employees who accumulate compensatory balances during the fiscal year will have all but one week of compensatory time balances cashed out as of the final payroll of the fiscal year.

(6) Holiday pay. All regular employees (including probationary) not required to work due to the observance of an official holiday, shall be compensated for the holiday (eight hours) at their regular straight time rate. All non-exempt employees that are required to work on a day set aside by the city for observance of a holiday shall have the option of either taking compensatory time off or receiving money for the time worked, at their regular straight time rate. (The employee shall indicate their option by marking it on the time sheet covering the pay period containing the holiday. If compensatory time off is elected by the employee, the department head shall make every effort to permit the use of such time off within a "reasonable period" after receiving the request, if such does not unduly disrupt the operations of the department. Mere inconvenience to the city is an insufficient basis for denial of a request for compensatory time off).

(7) Overtime compensation due and other special pay shall be paid on the pay day covering the next pay period. Employees with other than a forty-hour overtime threshold shall have their pay calculated on an hourly basis. Overtime rates shall be calculated in accordance with the provisions of FLSA. Longevity pay is specifically excluded from normal pay totals, except that it is included in overtime rate calculation as per FLSA. Longevity pay is paid annually in the month of the service anniversary date. In the event of any over-payment, appropriate adjustments shall be made in the month following discovery.

(8) The Mayor's pay is hereby established to be \$75,000 per year, the Aldermen pay is hereby established at \$500 per month and Planning Commission members (excluding the mayor and the board representative) is hereby established at \$100 per month.

(9) The pay of the Mayor, Aldermen, City Attorney and City Judge are subject to cost of living adjustments, if any, approved by the Board of Mayor and Aldermen for all full time and regular part time employees. Such increases shall be rounded to the nearest dollar and shall be effective for fiscal year 2005 for the City Attorney and City Judge, and fiscal year 2006 for the

Mayor and Aldermen.

4-305. Compensation limited by appropriations. No provisions of this chapter shall be construed as authorizing any increase in salary or wage during a fiscal year which would result in exceeding appropriations made for such purpose. (Ord. 2008-8, June, 2008)

4-306. Repeal of conflicting Code provisions. To the extent provisions of this ordinance conflict with other Municipal Code sections, the conflicting sections are hereby repealed to the extent that they are inconsistent with this ordinance. (Ord. 2004-24, June, 2004, Ord. 2004-33, September, 2004, Ord. 2005-18, June 2005)

CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-401. Occupational safety and health program created.
- 4-402. Definitions.
- 4-403. Coverage.
- 4-404. Employer's rights and duties.
- 4-405. Employee's rights and duties.
- 4-406. Standards authorized.
- 4-407. Variances from standards authorized.
- 4-408. Inspection.
- 4-409. Citation.
- 4-410. Penalties.
- 4-411. Record keeping and reporting.
- 4-412. Administration.
- 4-413. Confidentiality of trade secrets or privileged information.

4-401. Occupational safety and health program created. There is hereby created a safety and health program for the employees of the City of Hendersonville, as follows:

(1) **Title.** This chapter shall be known as "The Occupational Safety and Health Program for the Employees of the City of Hendersonville."

(2) **Purpose.** The City of Hendersonville in electing to establish and maintain an occupational safety and health program for its employees, shall:

(a) Provide a safe and healthful place and condition of employment.

(b) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees as soon as the city can investigate the availability, feasibility, adaptability and the most economical cost of the aforesaid.

(c) 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, 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 city has received, reviewed, and evaluated record keeping forms, procedures and guidelines that the state has promised to provide, and thereafter these provisions shall not take effect until after the city has had a reasonable period of time to set up and provide for the orderly implementation and use of such records.

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

(e) By agreement with the State Commissioner of Labor and state commissioner of health, devise a program of inspection and sanctions required to carry out the purpose of this program.

(f) Consult with the State Commissioner of Labor or the State Commissioner of Health, as appropriate, regarding health and safety problems of the agency which are considered to be unusual or peculiar to its activities, or responsibilities such that they cannot be achieved under a standard.

(g) 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 city has implemented the provisions of paragraph © hereinabove.

(h) 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.

(I) 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 as soon as reasonably possible after this chapter has been fully implemented. (Ord. #1973-25, July 1973)

4-402. Definitions. For the purpose of this program:

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

(3) "Employer" means the City of Hendersonville, and shall include each administrative department, commission, board, division or other agency of the city.

(4) "Director of Personnel" means the chief executive officer designated by the City of Hendersonville to perform duties or to exercise powers assigned so as to plan, develop, and administer the City of Hendersonville's Occupational Safety and Health Program.

(5) "Appointing authority" means any city official or group of officials having legally designated powers of appointment, employment, or removal for a specific department or commission.

(6) "Employee" means any person performing services for the City of Hendersonville and listed on city payrolls either as part time or permanent, full-time

employees; however, excluding independent contractors, their agents, servants, and employees.

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

(8) "Standard" means an occupational safety and health standard promulgated by the state commissioner of labor or the state commissioner of health and agreed upon by this city as a standard 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.

(9) "Issue" means a category of like industrial, occupational or hazard groupings which affects the safety and health of employment or place of employment, and is suggested by the groupings in Code of Federal Regulations, Title 29, Chapter XVII, Part 1910.

(10) "Establishment" or "workplace" means a single physical location where business is conducted or where services or industrial operations are performed. (Ord. #1973-25, July 1973)

4-403. Coverage. The provisions of this program shall apply to employees of each administrative department, commission, board, division or other agency of the City of Hendersonville. (Ord. #1973-25, July 1973)

4-404. 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. However, 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 that are agreed upon by this city.

(3) Employer shall assist the state commissioner of labor and state commissioner of health in the performance of their inspection duties by supplying necessary information at reasonable times upon reasonable notice from the said commissioners.

(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 such 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 this chapter has been fully implemented and all department heads, supervisors are fully informed and trained to carry out and implement the provisions of this chapter.(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 as soon as reasonably possible after such an actual determination has been made by the city. (Ord. #1973-25, July 1973)

4-405. 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 established 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 this chapter has 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 City of Hendersonville.

(9) Nothing in this section or any other provisions of this program shall be deemed to authorize or require medical examinations, 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. (Ord. #1973-25, July 1973)

4-406. Standards authorized. The standards that shall be applicable shall be those subsequently adopted by the City of Hendersonville which shall be those standards agreed upon with the appropriate state officials. (Ord. #1973-25, July 1973)

4-407. Variances from standards authorized. The City of Hendersonville may, upon written application to the state commissioner of labor or the state commissioner of health, request an order granting a temporary variance from the agreed 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 city, shall be deemed sufficient notice to employees. (Ord. #1973-25, July 1973)

4-408. Inspection. (1) In order to carry out the purpose of this program, the director of personnel, or his authorized representatives, 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 City of Hendersonville; 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.

(2) The director of personnel may issue subpoenas to require the attendance and testimony of witnesses and the production of evidence under oath.

(3) An administrative representative of the city 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 workplace 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 or the operations of the workplace 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. The director of personnel may authorize the giving to any supervisor or employee advance notice of an inspection. (Ord. #1973-25, July 1973)

4-409. Citation. (1) If, upon an inspection or investigation, the director of personnel, or his designated deputy or authorized representatives, finds that any work place is not in compliance with any standard, rule, regulation or order, 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 and after a hearing, the director of personnel shall thereafter issue an order affirming, modifying, or vacating the citation, and such order shall be final. (Ord. #1973-25, July 1973)

4-410. Penalties. (1) The City of Hendersonville shall not issue monetary penalties against any administrative department, commission, board, division or other agency of the City of Hendersonville 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 appointing authority. The appointing authority 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

The employee being disciplined shall have the right of appeal to the director of personnel. (Ord. #1973-25, July 1973)

4-411. Record keeping and reporting. (1) The City of Hendersonville shall establish and maintain a system for collecting, maintaining and reporting safety and health data as soon as reasonably possible after implementing the provisions of § 4-401(2) of this chapter, under the subsection entitled, "Purpose."

(2) 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.

(3) The City of Hendersonville shall report within eight (8) hours to the commissioner of labor any accident which is fatal to one or more employees or which results in three or more employees admitted to the hospital.

(4) The City of Hendersonville shall make an annual report after this chapter has been fully implemented to the commissioner of labor showing the accomplishments and progress of the city's occupational safety and health program. (Ord. #1973-25, July 1973, Ord. 1999-31, December 1999)

4-412. Administration. The mayor for the purposes of this chapter 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 city's occupational safety and health program. The mayor is hereby authorized to designate, appoint, employ such other person as he may wish to serve in the aforesaid capacities and after such appointment, the mayor shall be relieved of any responsibility to perform any of the duties or exercise the powers required or authorized hereunder.

(1) The director of personnel may designate persons as he deems necessary to carry out his powers, duties and responsibilities under the program.

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

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

(4) The director of personnel shall develop a plan for the City of Hendersonville's Occupational Safety and Health Program for the approval and adopted by the mayor and the board of aldermen. Any subsequent changes in the plan shall also be submitted to the mayor and the board of aldermen for approval and adoption. (Ord. #1973-25, July 1973, modified)

4-413. Confidentiality of trade secrets or privileged information.

(1) Compliance with any other law or statute which regulates safety and health in employment and places of employment shall not excuse the City of Hendersonville, or employee, or any other person from compliance with the provisions of this program.

(2) Compliance with any provisions of this program or any standard or regulation promulgated pursuant to this program shall not excuse the City of Hendersonville or employee or any other person from compliance with any city law or ordinance regulating and promoting safety and health unless such law or resolution is specifically repealed. (Ord. #1973-25, July 1973)

CHAPTER 5**INFECTIOUS DISEASE CONTROL POLICY****SECTION**

- 4-501. Established.
- 4-502. Training.
- 4-503. City to pay for protective equipment.
- 4-504. Hepatitis B vaccines.
- 4-505. Disposal of contaminated equipment and materials.
- 4-506. Laundry services.
- 4-507. Reporting potential exposure.
- 4-508. Legal rights of victims of communicable diseases.
- 4-509. Records to be kept confidential.

4-501. Established. An exposure control plan shall be established and reviewed and updated annually.

The exposure control plan shall include the following:

- (1) Exposure determination with a list of all job classifications by title in which employees and/or volunteers have occupational exposure.
- (2) Schedule and methods of implementation for compliance with OSHA 29 CFR Part 1910.1030 Occupational Exposure to Bloodborne Pathogens, Final Rule. (Ord. #1992-15, May 1992)

4-502. Training. Training mandated by OSHA shall be conducted annually and records of the dates, participants, and instructors shall be made a part of the permanent record. (Ord. #1992-15, May 1992)

4-503. City to pay for protective equipment. All necessary personal protective equipment shall be paid for by the city and provided for all employees and/or volunteers determined to have potential occupational exposure. (Ord. #1992-15, May 1992)

4-504. Hepatitis B vaccines. Hepatitis B vaccines shall be paid for and provided by the city and shall be offered to all employees and/or volunteers determined to have potential occupational exposure. (Ord. #1992-15, May 1992)

4-505. Disposal of contaminated equipment and materials. Disposal of contaminated equipment and materials shall be the responsibility of the City of Hendersonville. (Ord. #1992-15, May 1992)

4-506. Laundry services. Commercial laundry services for contaminated uniforms will be paid for and provided by the City of Hendersonville. (Ord. #1992-15, May 1992)

4-507. Reporting potential exposure. Employee and/or volunteers are required to report any exposure incidents that may place them at risk for HIV or HBV infections in the same manner as Workman's Compensation injuries are presently reported. Post exposure management shall be in accordance with OSHA 29 CFR Part 1910.1030. (Ord. #1992-15, May 1992)

4-508. Legal rights of victims of communicable diseases. Victims of communicable diseases shall be afforded the same level of services provided to any other citizen. Any employee and/or volunteers refusing to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall be subject to disciplinary measures up to and including dismissal. (Ord. #1992-15, May 1992)

4-509. Records to be kept confidential. Medical records of victims and employees and/or volunteers shall be considered confidential and shall not be made available to anyone other than on a need-to-know basis. (Ord. #1992-15, May 1992)

CHAPTER 6

TRAVEL REIMBURSEMENT REGULATIONS¹

SECTION

4-601. Coverage.

4-602. Travel and expense policy.

4-603. Vehicle use policy.

4-601. Coverage. The mayor, aldermen, members of boards and committees appointed by the mayor or board of mayor and aldermen, including persons designated by the mayor as acting on behalf of the city as a representative, and other city employees or officials, may be reimbursed for reasonable and necessary expenses incurred in the conduct of official business. (Ord. #1994-4, Jan. 1994)

4-602. Travel and expense policy. The travel and expense policy adopted by the board of mayor and aldermen by this chapter and any amendments will govern the reimbursement of expenses incurred by these municipal officials, board and committee members, city representatives, and employees. (Ord. #1994-4, Jan. 1994)

4-603. Vehicle use policy. The vehicle use policy adopted by the board of mayor and aldermen by this chapter and any amendments to that written policy will govern the use of vehicles by these representatives and employees. (Ord. #1994-4, Jan. 1994)

¹Travel Policies and Regulations are addressed in the Administrative Policy Manual, Administrative #1, of record in the office of the recorder.