

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.

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(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 City Administrator. (Ord. 2020-19, July 2020)

(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, Ord. 2020-19, July 2020)

4-204. Administration. (1) The City Administrator shall have the basic responsibility for the personnel program as set forth in this chapter. The City Administrator 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 City Administrator may, at the City Administrator's discretion, authorize the head of the department or office responsible to the City Administrator 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 City Administrator shall appoint a human resources manager as set forth above, which director shall:

(a) Administer under the direction of the City Administrator, 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 City Administrator rules and revisions and amendments thereto;
- (d) Recommend to the City Administrator a position classification plan for approval by the governing body, and install and maintain such a plan;
- (e) Prepare and recommend to the City Administrator 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 City Administrator 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 City Administrator;
- (k) Maintain adequate personnel records to include for each employee the class, title, pay and other relevant data;
- (l) Advise the City Administrator 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 City Administrator 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 City Administrator. 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 City Administrator, 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 City Administrator 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 City Administrator 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, City Administrator 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 City Administrator shall notify all employees in the classified service that the City Administrator 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, Ord. 2020-19, July 2020)

4-205. Funding the Program Plan. Sufficient funds for administering and staffing the Program Plan pursuant to this ordinance shall be made available as authorized by the City of Hendersonville. (Ord. 2013-35, September 2013)

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 City Administrator for adoption, with said rules to be applicable to all employees in the classified service. The City Administrator, 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 City Administrator;

(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, Ord. 2020-19, July 2020)

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 City Administrator 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 City Administrator, 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, Ord. 2020-19, July 2020)

4-207. Compensation. (1) The human resources manager, under the direction of the City Administrator 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 City Administrator 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, Ord. 2020-19, July 2020)

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 City Administrator. Examination, when used and

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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 City Administrator. Physical agility tests may be given as a part of any examination.

The City Administrator 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, Ord. 2020-19, July 2020)

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 qualified candidates, with a minimum of three (3) candidates from the appropriate eligibility 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. All vacancies in the classified service shall be filled utilizing the appropriate eligibility list in the following order:

- (1) Re-employment lists from which appointments shall be made of employees who are eligible for re-employment and meet the position requirements. Re-employment lists shall be established as the occasion warrants;
- (2) Promotional lists from which promotional appointment shall be made;
- (3) Entrance lists from which original appointments shall be made;
- (4) A position may be deemed to be hard to fill when, after advertising its availability in accordance with these rules and regulations, less than three (3) qualified applicants come forth.

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, at the discretion of the appointing authority. No permanent appointment may be made without such certification.

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 City Administrator, may promote one such employee, otherwise, recruitment must be made from outside the municipal service.

For the purpose of establishing eligibility lists in those unique situations of hard-to-fill positions, when an effort has been made to recruit and establish such eligibility lists in accordance with the personnel rules and regulations of the City of Hendersonville, and there are only one or two qualified candidates, the department head and human resources manager, with the approval of the City Administrator, may establish an eligibility list with one or two names of qualified individuals for consideration.

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, Ord. 2018-14, April 2018, Ord. 2020-19, July 2020)

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 City Administrator 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, Ord. 2020-19, July 2020)

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

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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)

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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 City Administrator 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, Ord. 2020-19, July 2020)

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 rates for full time employees are adjusted in accordance with the acceptance and implementation of a new pay plan effective the first pay period in July 2018. All full-time employees will receive a 2.5% increase in their rate of pay except non-clerical public safety employees who will receive a 5.0% increase in their rate of pay. Members of the Board of Mayor and Aldermen, and the hourly rates for regular part time employees, the Mayor, the City Judge and the City Attorney have been increased by a 2.5% cost of living adjustment beginning the first pay period in July 2018. A 2.5% step/merit increase is budgeted for full time employees based on a meets evaluation on the employee's anniversary date. Longevity payments are budgeted at fiscal year 2019 rates. The salary schedules as adopted shall apply to full time, regular part time and regular temporary employees whose salary shall be prorated according to the hours worked. Part time seasonal parks employees

shall continue to be paid according to the temporary seasonal salary schedule. The City adopts the new job classification, compensation plan and salary scale prepared by Burris Thompson and Associates, Inc. (Ord. 2013-28, June 2013, Ord. 2018-22, June 2018)

(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 where such degrees are not part of the minimum qualifications for their job class shall receive additional pay step increments regardless of current placement on their respective pay grade/step as follows:

<u>Required Education</u>	<u>Pertinent Possessed Education</u>		
	<u>Associate’s</u>	<u>Bachelor’s</u>	<u>Master’s</u>
High School	2.5%	5 %	7.5 %
Associates Degree	---	2.5 %	5 %
Bachelor’s Degree	---	---	2.5 %
Master’s Degree	---	---	—

For purposes of employee’s salary, Educational Attainment Pay shall be added to the employee’s base salary and that total shall be considered the employee’s base salary.

No current employee affected by this situation will suffer a pay reduction as a result of this new policy.

Only degrees issued by institutions accredited by one of the six regional accrediting agencies recognized by the Council for Higher Education Accreditation (CHEA), qualify for Educational Attainment Pay provided however, that Information Technology employees may qualify for Educational Attainment Pay with degrees from schools not recognized by the CHEA 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. (Ord. 2010-2, March 2010, Ord. 2018-22, June 2018, Ord. 2020-33, October 2020, Ord. 2021-19, June 2021)

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. and Negotiator assignments. Police department employees who are members of the H.E.A.T. or Negotiator teams shall receive \$35 per month while so assigned.

(3) Motorcycle, bicycle, K-9, mount patrol assignments. Police Department employees who operate motorcycle, bicycle, K-9, or mounted patrol duty during their shifts of work shall receive an additional sixty-five dollars (\$65.00) per month while so assigned. (Ord. # 2007-39, October 2007, Ord. # 2014-18, September 2014)

(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 \$125 per month. Firefighters and certified police officers who have or attain and maintain paramedic certification shall receive an additional \$300 a month. A firefighter or certified police officer may receive either EMT or Paramedic pay, but not both. (Ord. 2018-22, June 2018)

(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.

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(8) Hazardous Materials (HazMat) Technician Certification. Firefighters who have or attain and maintain HazMat Technician Certification shall receive an additional \$75 per month. (Ord. 2015-15, August 2015)

(9) Dive Team Supplemental Pay. Fire Department employees who are certified Dive Team members shall receive \$30 per month while so assigned.

(10) Air Pack Technician Supplemental Pay. Fire Department employees who are certified Air Pack Technicians shall receive \$30 per month while so assigned.

(11) On Call Pay. Fire Inspectors shall receive \$35 per month for on call pay while so assigned. (Ord. 2016-10, June 2016)

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 to a higher classified position, the employee's salary shall be advanced only to the step rate in the new pay range which provides a rate of pay closest to a 7.5% increase over the employee's previous pay rate. No promoted employee shall

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be paid above the maximum rate of pay allowed in the new pay range. If the employee's pay is below the minimum pay rate in the new range, the employee's pay rate shall be increased to the minimum pay rate.

Promotional pay rate should include an employee's educational attainment pay, and other pay benefits should not be included. Once the new pay grade/step is determined to provide the closest pay step to a 7.5% increase, the pay step and educational attainment pay should be recalculated appropriately. Education attainment pay should be removed if the employee's new position requires the same education level currently held by the employee.

The provisions of this ordinance shall apply to all promotions after June 1, 2020. (Ord. 2018-22, June 2018, Ord. 2020-13, May 2020)

(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, shift differentials, H.E.A.T. and Negotiator, motorcycle, bicycle, K-9, mount patrol pay, EMT, and paramedic pay, call back, court time, uniform allowance, hazmat technician, dive team, air pack and on call pay, etc. in addition to the maximum step. (Ord. 2007-39, October 2007, Ord. 2014-18, September 2014, Ord. 2015-15, August 2015, Ord. 2016-10, June 2016)

(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 \$100/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

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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 \$43,200 per year, beginning with the November 2020 Mayoral term, the Aldermen pay is hereby established at \$615.77 per month and Planning Commission members (excluding the mayor and the board representative) is hereby established at \$200 per month. (Ord. 2007-15, June 2007, Ord. # 2013-28, June 2013, Ord. 2015-7, June 2015, Ord. 2016-10, June 2016, Ord. 2018-22, June 2018, Ord. 2019-22, June 2019, Ord. 2020-20, July 2020; Ord. # 2022-11, June 2022)

(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. (Ord. 2004-24, June 2004)

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. 2020-20, June 2020)

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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, Ord. 2015-7, June 2015)

4-307. Pay Benefits for Parks Department Employees. The following employees in the Parks Department shall receive \$35 per month while so assigned: Assistant Maintenance Supervisor-Facilities, Assistant Maintenance Supervisor-Athletics and Events, Crew Leader-Facilities, Crew Leader-Athletics and Events and Senior Property Maintenance Work (Ord. 2019-53, February 2020)

CHAPTER 4**OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN**

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH
PROGRAM PLAN FOR THE EMPLOYEES OF THE CITY OF HENDERSONVILLE,
TENNESSEE

SECTION

- 4-401. Purpose And Coverage
- 4-402. Definitions
- 4-403. Employer's Rights and Duties
- 4-404. Employee's Rights and Duties
- 4-405. Administration
- 4-406. Standards Authorized
- 4-407. Variance Procedure
- 4-408. Recordkeeping And Reporting
- 4-409. Employee Complaint Procedure
- 4-410. Education And Training
- 4-411. General Inspection Procedures
- 4-412. Imminent Danger Procedures
- 4-413. Abatement Orders and Hearings
- 4-414. Penalties
- 4-415. Confidentiality Of Privileged Information
- 4-416. Discrimination Investigations and Sanctions
- 4-417. Compliance With Other Laws Not Excused

APPENDICES - UPDATED AND MAINTAINED IN ADMINISTRATIVE POLICIES

- I. WORK LOCATIONS
- II. NOTICE TO ALL EMPLOYEES
- III. PROGRAM PLAN BUDGET
- IV. ACCIDENT REPORTING PROCEDURES

4-401. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the

Occupational Safety and Health Program Plan for the employees of the City of Hendersonville, Tennessee.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The City of Hendersonville, Tennessee in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees,

- (1) Provide a safe and healthful place and condition of employment.
- (2) Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- (5) Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- (6) Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.
- (7) Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.
- (8) Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

4-402. DEFINITIONS

For the purposes of this Program Plan, the following definitions apply:

- (1) COMMISSIONER OF LABOR and Workforce Development means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

- (2) EMPLOYER means the City of Hendersonville, Tennessee and includes each administrative department, board, commission, division, or other agency of the City of Hendersonville, Tennessee.
- (3) SAFETY DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH or SAFETY DIRECTOR means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of the City of Hendersonville, Tennessee.
- (4) INSPECTOR(S) means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.
- (5) APPOINTING AUTHORITY means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.
- (6) EMPLOYEE means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as “volunteers” provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- (7) PERSON means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- (8) STANDARD means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- (9) IMMINENT DANGER means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.

- (10) ESTABLISHMENT or WORKSITE means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- (11) SERIOUS INJURY or 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(s); 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 body system would be inhibited in its normal performance or function 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, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- (12) ACT or TOSH Act shall mean the Tennessee Occupational Safety and Health Act of 1972.
- (13) GOVERNING BODY means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- (14) CHIEF EXECUTIVE OFFICER means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

4-403. 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 employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- (2) Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.

- (3) Employer shall refrain from an unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employer's place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- (4) Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- (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 its legally privileged communication.
- (7) Employer shall inspect all worksites to ensure the provisions of this Program Plan are complied with and carried out.
- (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 and of corrective action being taken.
- (9) Employer shall notify all employees of their rights and duties under this Program Plan.

4-404. 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 act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- (2) Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.
- (3) Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- (4) Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- (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 any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant

symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.

- (6) Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
- (7) Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
- (8) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
- (9) Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- (10) Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo 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 or others or when a medical examination may be reasonably required for performance of a specific job.
- (11) Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

4-405. ADMINISTRATION

- (1) The Safety Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.
 - (a) The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
 - (b) The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
 - (c) The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.
 - (d) The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance

inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.

- (e) The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 - (f) The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 - (g) The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 - (h) The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 - (i) The Safety Director shall, in the eventuality that there is a fatality, ensure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours. All work-related inpatient hospitalizations, amputations, and loss of an eye must be reported to TOSHA within 24 hours.
- (2) The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.
- (a) The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan.
 - (b) The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.
 - (c) The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 - (d) The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

4-406. STANDARDS AUTHORIZED

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

4-407. VARIANCE PROCEDURE

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- (1) The application for a variance shall be prepared in writing and shall contain:
 - (a) A specification of the standard or portion thereof from which the variance is sought.
 - (b) A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 - (c) A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 - (d) A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 - (e) A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.

- (2) The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.

- (3) The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
- (a) The employer:
 - (i) Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - (ii) Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - (iii) Has an effective Program Plan for coming into compliance with the standard as quickly as possible.
 - (b) The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.
- (4) A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- (5) Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- (6) The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

4-408. RECORDKEEPING AND REPORTING

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to www.osha.gov and type Recordkeeping Forms in the search box.

The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the

recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORD-KEEPING AND REPORTING, CHAPTER 0800-01-03, as authorized by T.C.A., Title 50.

4-409. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Director of Occupational Safety and Health.

- (1) The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- (2) Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if not, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- (3) If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- (4) The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.

- (5) After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.
- (6) Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

4-410. EDUCATION AND TRAINING

(1) Safety Director and/or Compliance Inspector(s):

- (a) Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
- (b) Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

(2) All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

- (a) Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employee's work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
- (b) Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
- (c) Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best

avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.

- (d) Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.
- (e) Instruct employees on hazards and dangers of confined or enclosed spaces.
 - (i) Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.
 - (ii) Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - (iii) The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

4-411. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan that will ensure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- (1) In order to carry out the purposes of this Ordinance, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:
 - (a) To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;

- (b) To inspect and investigate during regular working hours and at other reasonable times, 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 found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
 - (3) An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Director or Inspector during the physical inspection of any worksite 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 conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
 - (6) Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
 - (7) Advance Notice of Inspections.
 - (a) Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
 - (b) There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
 - (8) The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 - (a) Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.

- (b) Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.
- (9) The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

4-412. IMMINENT DANGER PROCEDURES

- (1) Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
- (a) The Safety Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 - (b) If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made 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 constitutes an imminent danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 - (d) The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 - (e) The imminent danger shall be deemed abated if:
 - (i) The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - (ii) Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.

- (f) A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.

(2) Refusal to Abate.

- (a) Any refusal to abate an imminent danger situation shall be reported to the Safety Director and Chief Executive Officer immediately.
- (b) The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

4-413. ABATEMENT ORDERS AND HEARINGS

- (1) Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:

- (a) Issue an abatement order to the head of the worksite.
- (b) Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

(2) Abatement orders shall contain the following information:

- (a) The standard, rule, or regulation which was found to be violated.
- (b) A description of the nature and location of the violation.
- (c) A description of what is required to abate or correct the violation.
- (d) A reasonable period of time during which the violation must be abated or corrected.

- (3) At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

4-414. PENALTIES

- (1) No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.
- (2) Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 - (a) Oral reprimand.
 - (b) Written reprimand.
 - (c) Suspension for three (3) or more working days.
 - (d) Termination of employment.

4-415. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

4-416. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann § 50-3-409 can file a complaint with their agency/safety Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

4-417. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

- (1) Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this Program Plan.
- (2) Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

(Ord. 2023-01, February 2023)

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)

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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 City Administrator 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, Ord. 2020-19, July 2020)

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.