

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

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CHAPTER 1

SOCIAL SECURITY

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4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this city to provide for all eligible employees and officials of the city (except part-time employees), whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1993 Code, § 1-801, as replaced by Ord. #761, Dec. 2003)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1993 Code, § 1-802, as replaced by Ord. #761, Dec. 2003)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1993 Code, § 1-803, as replaced by Ord. #761, Dec. 2003)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1993 Code, § 1-804, as replaced by Ord. #761, Dec. 2003)

4-105. Records and reports to be made. The municipality shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1993 Code, § 1-805, as replaced by Ord. #761, Dec. 2003)

CHAPTER 2

PERSONNEL RULES AND REGULATIONS

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4-201. Definitions. As used in these rules, the following words and terms shall have the meanings listed:

(1) "Absence without leave." An absence from duty which was not authorized or approved.

(2) "Applicant." An individual who has applied in writing on an application form for employment.

(3) "Appointment." The offer to and acceptance by a person of a position either on a regular or temporary basis.

(4) "City." The City of East Ridge, Tennessee.

(5) "Class." A group of positions which are sufficiently alike in general duties and responsibilities to warrant the use of the same title, class specifications, and pay range.

(6) "Class specification." A written description of a class consisting of a class title, a general statement of the level of work and of the distinguishing features of work, examples of duties, and desirable qualifications for the class.

(7) "Classification." The act of grouping positions in classes with regard to:

- (a) Duties and responsibilities;
- (b) Requirements as to education, knowledge, experience, and ability;
- (c) Tests of fitness; and
- (d) Ranges of pay.

(8) "Classification plan." The official or approved system of grouping positions into appropriate classes consisting of:

- (a) An index to the class specifications;
- (b) The class specifications; and
- (c) Rules for administering the classification plan.

(9) "Classified service." The classified service shall include all positions in the city service except those listed under exempt service.

(10) "Compensation plan." The official schedule of pay approved by the mayor and council assigning one or more rates of pay (pay range) to each class title.

(11) "Compensatory leave." Time off from work in lieu of monetary payment for overtime worked.

(12) "Demotion." Assignment of an employee from one class to another which has a lower maximum rate of pay and rank.

(13) "Department." The primary organizational unit which is under the immediate charge of a supervisor who reports directly to the city manager.

(14) "Director." An employee that oversees the operation of a department and reports directly to the city manager.

(15) "Disciplinary action." Action which may be taken when the employee fails to follow departmental rules or any provisions of these rules.

(16) "Dismissal." A type of disciplinary action which separates an employee from the city payroll.

(17) "Employee." An individual who is legally employed and is compensated through the payroll.

(18) "Family and medical leave." The excused absence without pay, after using paid leave, for a period of time not to exceed twelve (12) weeks for the purpose of family and/or medical leave.

(19) "Full-time employees." Individuals who work the equivalent of an average of forty (40) hours or more per week and whose position is not listed as temporary, part-time, or seasonal.

(20) "Grievance." A dispute arising between an employee and supervisor or other employee relative to some aspect of employment, interpretation of regulations and policies, or some management decision, other than disciplinary action, affecting the employee.

(21) "Immediate family." Includes the spouse, grandparents, parents, children, grandchildren, children-in-law, siblings, stepchildren, stepparents, and foster parents of an employee and similar blood relatives of the employee's spouse.

(22) "Lay-off." The involuntary non-disciplinary separation of an employee from a position because of shortage of work, materials, or funds.

(23) "Leave." An approved type of absence from work as provided for by these rules.

(24) "Maternity leave." An absence due to pregnancy, childbirth, adoption of a child, or related medical conditions.

(25) "Merit pay increase." An increase in compensation established in the compensation plan which may be granted to an employee for meritorious service and completion of minimum prescribed periods of employment in the class.

(26) "Nepotism." Favoritism shown to immediate family members or other close relatives by reason of relationship rather than merit.

(27) "Occupational disability or injury leave." An excused absence from duty because of an injury or illness sustained in the course of employment and determined to be compensable under the provisions of the Workers' Compensation Law.

(28) "Overtime." Authorized time worked by an employee in excess of normal working hours or work period.

(29) "Overtime pay." Compensation paid to an employee for approved overtime work performed in accordance with these rules.

(30) "Promotion." Assignment of an employee from one class to another which has a higher maximum rate of pay and rank.

(31) "Probationary period." a trial employment period.

(32) "Reclassification." The classification action of a position by classifying it upward, downward, or to a different classification on the basis of sufficient changes in the kind, development, or responsibilities of work assigned to the position.

(33) "Reprimand." A type of disciplinary action, oral or written, denoting a violation of personnel regulations which becomes part of the employee's personnel record.

(34) "Seniority." Length of service as a full-time employee.

(35) "Supervisor." Any individual having authority on behalf of the municipality to assign, direct, or discipline other employees, if the exercise of such authority is not a mere routine or clerical nature, but requires the use of independent judgment.

(36) "Suspension." An enforced leave of absence for disciplinary purposes or pending investigation of charges made against an employee.

(37) "Temporary employee." An employee holding a position which is of a temporary, seasonal, casual, or emergency nature.

(38) "Transfer." Assignment of an employee from one position to another position of equal pay and rank.

(39) "Work day or work period." Scheduled number of hours an employee is required to work per day or per scheduled number of days. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-202. Coverage. Except where noted, these rules shall apply only to full-time positions which are not specifically placed in the exempt service. The exempt service shall include the following:

(1) All elected officials and persons appointed to fill vacancies in elective offices.

(2) All members of appointive boards, commissions, or citizens committees.

(3) City attorney.

(4) Consultants, advisors, and counsel rendering temporary professional service.

(5) Independent contractors (city manager).

(6) Temporary employees who are hired to meet the immediate requirements of an emergency condition.

(7) Seasonal employees who are employed for not more than three (3) months during the fiscal year.

(8) Persons rendering part-time service.

(9) Volunteer personnel, such as volunteer police officers, firefighters; and all other personnel appointed to serve without compensation.

(10) Employees of the board of waterworks and sewerage commissioners or municipal hospital.

(11) Probationary employees except those sections specifically applicable to probationary employees. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-203. Administration. The city manager, or his delegated representative, shall have the basic responsibility for the personnel program as set forth in this policy. This policy shall conform to all requirements of the Fair Labor Standards Act. In addition to other duties as set forth, the city manager shall:

(1) Exercise leadership in developing a system of effective personnel administration within the municipal departments subject to this policy.

(2) Develop programs for improvement of employee effectiveness, including training, safety, and health.

(3) Recruit qualified applicants for city employment and identify qualified employees for promotion.

(4) Maintain records of all employees of the municipal departments.

(5) Maintain the classification plan.

(6) Maintain and recommend a pay plan for all city employees for approval of the mayor and council.

(7) Perform other such duties as may be assigned by the mayor and council. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-204. Classification plan. (1) Purposes. The classification plan provides a complete inventory of all positions in the municipal government's service and an accurate description and specifications for each class of employment. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities, and has the same meaning throughout the city service.

(2) Composition of the classification plan. The classification plan shall consist of:

(a) A grouping of classes of positions which are approximately equal in difficulty and responsibility, which call for the same general qualification, and which can be equitably compensated within the same range of pay under similar working conditions;

(b) Position titles descriptive of the work of the class which identifies the class;

(c) Written specifications for each class of positions; and

(d) Physical standards for performance of the duties of the position.

(3) Use of job titles. Job titles are to be used in all personnel, accounting, budget appropriation and financial records of the city. No person will be appointed or employed in a position in the city service under a title not included in the classification plan.

(4) Use of the classification plan. The classification plan is to be used:

(a) As a guide in recruiting and examining candidates for employment;

(b) In determining lines of promotion and in developing employee training programs;

(c) In determining salaries to be paid for various types of work;

(d) In determining personal service items in departmental budgets; and

(e) In providing uniform job terminology understandable by all municipal government officers and employees and by the general public.

(5) Administration of the classification plan. The city manager is charged with maintaining the classification plan of the municipal government so that it will reflect the duties performed by each employee in the service of the city and the class to which each position is allocated. It is the duty of the city manager to examine the nature of the classes of positions, to make such changes in the classification plan as are deemed necessary by changes in the duties and responsibilities of existing positions; and periodically to review the entire classification plan and recommend appropriate changes in allocations or in the classification plan itself.

(6) Allocation of positions. Whenever a new position is established, or duties of an old position change, department heads shall submit in writing a comprehensive job description describing in detail the duties of such a position to the city manager. The city manager shall investigate the actual or suggested duties and recommend to the mayor and council the appropriate class allocation or the establishment of a new class. The mayor and council may direct that the recommendation be reviewed by outside management consultants. The mayor and council shall then approve or change such recommendations.

(7) Request for reclassification. Any employee who considers his/her position improperly classified shall first submit his/her request to the department head who shall review the justification for the request. The department head will notify the city manager of all requests for reclassification. If the city manager and department head find that there is merit in the request, the city manager shall grant the request. If they find the request is not justified, they shall advise the employee of their decision. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-205. Compensation plan. (1) Purpose. The pay plan is intended to provide fair compensation for all skill levels in the classification plan in consideration of ranges of pay for other levels, general rates of pay for similar

employment in private establishments and other public jurisdictions in the area, cost of living data, the financial condition of the municipality, and other factors.

(2) Composition. The pay plan for the City of East Ridge shall consist of minimum and maximum rates of pay with intermediate steps for each existing pay grade (skill level).

(3) Maintenance of the pay plan. The mayor and council may direct from time to time that comparative studies be made of all factors affecting the level of salary ranges and that recommendations be made to the mayor and council such changes in the salary ranges as appear to be in order. Such adjustments will be made by increasing or decreasing the salary ranges the appropriate number of steps as provided in the basic salary schedule, and the rate of pay for each employee will be adjusted an appropriate number of steps in conformity with the adjustment of the salary range for that class as approved by the mayor and council.

Under normal circumstances, an employee will progress through the step Increases annually, based on satisfactory job performance, and based on availability of funds and approval by the mayor and council.

(4) Use of salary ranges. Salary ranges are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same skill level, and in providing incentives to employees.

The minimum rate established for a class is the normal hiring rate except in those cases where unusual circumstances (such as inability to fill the position at the hiring rate or exceptional qualifications of an applicant) appear to warrant employment of an individual at a higher rate in the pay range. Any department head desiring to appoint an applicant to start at a salary above the minimum must submit a written justification to the city manager for his approval. Such appointments shall be made only in exceptional cases.

(5) Pay for part-time work. When an employment decision is for a part-time position, only the proportioned part of the rate for the time actually employed will be paid.

(6) Hourly rates. In accordance with the Fair Labor Standards Act (FLSA), no employee whether full-time, part-time or probationary, shall be paid less than the federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA requirements. Employees paid on an hourly rate basis are paid for all time actually worked.

(7) Rate of pay when position is classified or reclassified. A position that has been classified or reclassified upwards shall have the salary range set accordingly. When a position is reclassified upwards, the employee in that position shall continue receiving their current rate of pay unless that rate of pay falls below the minimum rate of the new classification. In such cases the rate shall be the minimum rate for the new skill level. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-206. Recruitment. (1) Applications. The City of East Ridge shall make every effort to attract qualified applicants for various types of positions. In so doing the appointing authority shall prepare and publish a public notice of vacancies when they occur in an officially designated newspaper, at an officially designated site in the city hall, and at such other sites as may be designated by the city manager. The city manager will also provide notice of vacancies in alternate media; including taped messages, radio announcements or other methods to ensure effective communication to someone with disabilities.

All applications for employment are received at the city manager's office and given thorough consideration by the appropriate department head. The City of East Ridge exercises a policy of fairness to every person who applies for work, and in cooperation with the supervisor involved, is responsible for the proper selection and placement of persons in various departments throughout the city. The city manager and department heads will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations. The City of East Ridge shall not discriminate on the ground of race, color, religion, or national origin.

Applicants may be removed from consideration if:

- (a) The applicant declines an appointment when offered.
- (b) The applicant cannot be located.
- (c) The applicant moves out of the area.
- (d) The applicant is currently using controlled substances as listed in § 4-230(3)(c).
- (e) The applicant is found to have been convicted of a felony or a misdemeanor involving moral turpitude as the term is defined by law.
- (f) The applicant has made a false statement of material fact on the application.
- (g) The application was not filed within the period specified in the announcement or was not filed on the prescribed form or in a different format as allowed as a reasonable accommodation.
- (h) The applicant does not possess the minimum qualifications as indicated by the job description for the position.

(2) Recruitment by examination. All appointments in the city service shall be made according to merit and fitness and may be subject to competitive examination. All such examinations shall fairly and impartially test those in matters that are job related and essential to the duties of the position to be filled.

(3) Types of examinations. The examinations held to establish eligibility and fitness for a position may consist of one (1) or more of the following parts as determined by the city manager. The city manager will make reasonable accommodations in the examination process to applicants with disabilities requesting such accommodations.

- (a) Written test. This part, when required by job specifications, shall include a written demonstration designed to show the familiarity of

applicants with the knowledge necessary for the position for which they are applying.

(b) Oral test. This part, when required by job specifications, shall include a personal interview where the ability to deal with others, to meet the public, and/or other personal qualifications are to be evaluated. An oral interview may also be used in examinations where a written test is unnecessary, impractical or as a reasonable accommodation to someone unable to take a written test due to a disability.

(c) Performance test. This test, when required by job specifications, shall involve test of performance as would aid in determining the ability and manual skills of applicants to perform the work involved.

The performance test may be given a weight in the examination process or may be used to exclude from further consideration applicants who are unable to perform the essential functions of a specific position when it is determined:

(i) They cannot perform the essential functions due to a disability, which cannot reasonably be accommodated;

(ii) They pose a direct threat to themselves or others;

(iii) They are unable to perform the essential functions due to a temporary condition or disability not protected by ADA.

(d) Physical agility test. When required by job specifications, this test consists of job-related tests of bodily conditioning, muscular strength, agility, and physical fitness of job applicants for a specific position. This test may be given weight in the examination process or maybe used to exclude from further consideration applicants who do not meet the minimum required standards.

(e) Mental test. When required by job specifications, the mental test shall include any test to determine mental alertness, general capacity of the applicant to adjust his/her thinking to new problems, or to ascertain special character traits and attitudes.

(4) Notification and inspection of examination results. For entry level positions within all departments an eligible list may be established and maintained. Applicant access to this eligible list may require successfully passing one (1) or more of the examinations identified in § 4-206(3). These examinations shall be administered by the city manager and administrative staff as designated by the city manager. The eligible list shall be maintained by the city manager.

Examinations for access to the eligible list shall be offered in annual interviews or more frequently upon the discretion of the city manager. Eligible applicants obtaining the same score or composite score in the case of a multiple examination eligible list shall be considered to have the same rank on the eligible list. Individual names appearing on the eligible list shall remain in force

no longer than two (2) years. Those individuals whose tenure on the eligible list has reached two (2) years shall be allowed to participate in the examination next following the expiration from the eligible list and may or may not be reinstated on the list depending upon the results of their examination(s).

(5) Eligibility. Individuals shall be recruited from a geographic area as wide as is necessary to assure obtaining well-qualified applicants for the various types of employment positions. Recruitment, therefore, shall not be limited to residents of the City of East Ridge or Hamilton County. In cases where residents and non-residents are equally qualified for positions presently vacant, the resident shall receive first consideration in filling such vacancies. All applicants for positions including new hires as well as promotional advancements which require the potential for call-back to respond to emergency situations shall be required to live within twenty-five (25) road miles of the East Ridge city limits. If such employees live outside of this area, they must relocate within the area within six (6) months.

Present employees who were employed by the City of East Ridge prior to June 1, 2002, and were in violation of this section as of June 1, 2002, are exempted from this eligibility rule as it pertains to the violation that existed as of June 1, 2002. These requirements apply also to those positions listed as exempt.

(6) Medical examination of essential functions and general physicals.

(a) Pre-employment. Following a conditional offer of employment, each prospective employee, when required, may be given a medical examination for the essential functions for the position they have been offered and a general physical exam. The cost of the medical examination shall be borne by the city. Any prospective employee who is unable to successfully perform the essential functions tested for in the medical examination shall have their offer of employment by the city withdrawn only:

(i) If they cannot perform the essential functions due to a disability which cannot reasonably be accommodated.

(ii) They pose a direct threat to themselves or others.

(iii) They are unable to perform the essential functions due to a temporary condition or disability not protected by the Americans with Disabilities Act.

(b) Post-employment. All employees of the city may, during the period of their employment, be required by their department head and with the approval of the city manager, to undergo periodic examinations to determine their physical and mental fitness to perform the work of the position in which they are employed. This periodic examination shall be at no expense to the employee. Determination of physical or mental fitness will be by a physician designated by the city manager. When an employee of the city is reported by the examining physician to be physically or mentally unfit to perform work in the position for which

he/she is employed, the employee may, within five (5) days from the date of his/her notification of such determination, indicate in writing to the city manager his/her intention to submit the question of his/her physical or mental unfitness to a physician of his/her own choice. In the event there is a difference of opinion between the examining physician and the physician chosen by the employee, a physician shall be mutually agreed upon and designated by the examining physician and the physician chosen by the employee. The third physician's decision shall be final and binding as to the physical or mental fitness of the employee. The municipal government shall pay its physician; the employee shall pay his/her physician and the third physician shall be paid by the municipality. An employee determined to be physically or mentally unfit to continue in the position in which he/she is employed may be demoted in accordance with these rules or separated from city service only after it has been determined that:

- (i) They cannot perform the essential functions due to a disability, which cannot reasonably be accommodated.
- (ii) They pose a direct threat to themselves or others.
- (iii) They are unable to perform the essential functions due to a temporary condition or disability not protected by the Americans with Disabilities Act.

(7) Minimum age. All applicants must be at least eighteen (18) years of age to work as an employee. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and amended by Ord. #907, Dec. 2011)

4-207. Employee evaluations. Each employee may receive at least annually a written evaluation of his or her performance of assigned duties. Evaluations may be made whenever an employee is promoted or demoted. Special evaluations may also be performed as required. First year employees may receive an evaluation midway of the first year and at the end of the first year. The evaluation will be performed by the employee's immediate supervisor and shall be discussed with the employee. The employee will receive a rating on each assigned area of responsibility as well as an overall rating. Whenever an employee receives a rating that does not meet acceptable standards, the supervisor shall establish a documented plan designed to improve the employee's performance to a level that is acceptable. The supervisor will discuss the improvement plan with the employee during the discussion of the evaluation. The supervisor will then perform additional evaluations on a monthly basis until the employee's performance reaches the desired level. The employee and the supervisor will both sign each evaluation after discussion. Signature indicates only delivery and receipt of the evaluation, not approval. Disagreement by the employee with the results of the evaluation may be appealed under the grievance procedure in these rules and regulations. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-208. Use of employee evaluation. Employee evaluations may be used to assist in determining an employee's progression under the pay plan, to assist in choosing employees for promotion, and to determine layoff implementation whenever two (2) or more employees are basically qualified to fill one (1) position and both fulfill layoff requirements listed in these rules and regulations. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-209. Promotions. A promotion is an assignment of an employee from one position to another, which has a higher maximum rate of pay, rank and responsibility. Vacancies in positions above the lowest rank in any category shall be filled as far as practical by the promotion of employees. If the city manager determines there are no qualified employees eligible for promotion, then the position will be filled from a list of eligible applicants as determined by the recruitment process. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation. When an employee in one classification is promoted to a position in another classification and the employee's current rate of pay is less than the minimum rate, for the new position, the employee's salary shall be raised to that minimum rate. When the employee's salary falls above the new minimum rate, the employee will move to the new skill level at the next higher step from their old rate. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-210. Probationary period. During the first ninety (90) days of employment with the City of East Ridge all employees shall be considered probationary employees. This ninety (90) day period shall be used to assess the probationary employees' work ability, knowledge and attitude. At any time during this ninety (90) day period the probationary employee may be rejected for full time employment. The personnel rules and regulations regarding termination of employment shall not apply to probationary employees. All probationary employees offered and accepting full time employment shall on the date of acceptance of employment be considered a full time employee and shall be deemed to have accrued all benefits during the probationary period including building of annual leave time during the probationary period. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-211. Transfers. (1) When an employee desires to transfer from one position to another, it must be approved by the city manager. The transfer of an employee from one position to another without significant change in level of responsibility may be effective:

- (a) When the new employee meets the qualification requirements for the new position.
- (b) If it is in the best interest of the city.

(c) If it meets the personal needs of the employee as consistent with the other requirements of this rule.

(d) A reasonable accommodation when an employee is unable, due to a disability, to continue to perform the essential functions of the job.

An employee who transfers from one city department division to another will retain and carry forward all benefits earned or accrued or both as of the date of transfer. As a general rule lateral transfers require no increase in compensation. Employees in one classification who transfers from a position of a higher rate of pay to a classification and a position of a lower rate of pay shall have their pay rate reduced to the appropriate rate of pay for the new position.

(2) Nothing in this section shall impair or limit the city's ability to transfer employees from one position to another position if the city determines that it is in the best interest of the city to effect such a transfer. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-212. Demotions. A demotion is an assignment of an employee from one position to another, which has a lower maximum rate of pay, rank and responsibility. An employee may be demoted for any of the following reasons:

(1) Because his/her position is being abolished and he/she would otherwise be laid off.

(2) Because his/her position is being reclassified to a higher grade and the employee lacks the necessary skill to successfully perform the job.

(3) Because there is a lack of work.

(4) Because there is a lack of funds.

(5) Because another employee, returning from authorized leave granted in accordance with the rules on leave, will occupy the position to which the employee is currently assigned.

(6) Because the employee does not possess the necessary qualifications to render satisfactory service to the position he/she holds.

(7) Because the employee voluntarily requests such a demotion and it is available.

(8) As a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions of the job.

When an employee in one position is demoted to a lower position and the employee rate of pay is higher than the maximum rate for the new position, the employee's salary shall be reduced to an appropriate rate for the new position. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-213. Hours of work. The city manager shall establish a work schedule for each position, based on the needs of service, and taking into account the reasonable needs of the public, that may be required to do business with various departments. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-214. Attendance and absences. An employee shall be in attendance at work in accordance with these rules and with general department regulations. All departments shall keep daily attendance records of their employees.

Depending upon the type of leave requested, an employee shall be required to notify his or her supervisor that he or she is unable to report to work. Notification shall be in accordance with the requirements for each type of leave listed in these rules and regulations. Unauthorized absences shall be subject to disciplinary action up to and including dismissal. (Ord. #575, Feb. 1994, as amended by Ord. #691, Oct. 1999, modified, and replaced by Ord. #761, Dec. 2003)

4-215. Overtime (and compensatory leave). Overtime may be authorized by prior approval of the supervisor and/or the city manager. All non-exempt employees (as defined by the Fair Labor Standards Act) authorized to work overtime shall be paid at a rate of one and one-half (1 1/2) times the hourly rate for all overtime hour worked, or at the supervisor's discretion, shall receive compensatory time at the rate of one and one-half (1 1/2) times the hours worked provided the Fair Labor Standards Act shall be fully complied with. All non-exempt employees who are called back to work after normal work hours shall be compensated with overtime or compensatory leave for two (2) hours or actual time worked, whichever is greater. Public safety employees may accumulate a maximum of four hundred eighty (480) hours of compensatory leave time. All other city employees may accumulate a maximum of two hundred forty (240) hours of compensatory leave. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-216. Outside employment. No employee of the municipality shall perform any outside employment without a written authorization from the city manager or designee. Such authorizations shall not be granted if the work is likely to interfere with the satisfactory performance of the employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the municipality. The requirements of this section apply also to those full-time positions categorized as exempt. In the case of the city manager, city council approval is required. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-217. Pecuniary interests. No employee shall personally profit directly or indirectly from any contract, purchase, sale, or service between the municipality and any person or company; or personally as an agent providing any surety, bail, or bond required by law. No employees shall accept any free or preferred services, benefits, or concessions from any person or company. This requirement applies also to those positions categorized as exempt. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-218. Holiday leave. The following legal holidays are observed by the City of East Ridge: New Year's Day, Martin Luther King, Jr. Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Friday immediately following it, Christmas Eve, Christmas Day, and such other days as maybe designated by the mayor and council. The birthday of each full time employee shall be an official paid leave day for that employee of the City of East Ridge to be taken pursuant to rules determined by the city manager or the city manager's designee. When a holiday falls on Saturday or Sunday, the proceeding Friday will be observed or the following Monday, respectively, will be observed as a holiday for city employees. In order to receive holiday pay an employee must be a full-time employee and must not have been absent without leave either on the workday immediately before or after the holiday. If an employee is on paid leave, they will receive pay for the holiday in lieu of paid leave. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and amended by Ord. #783, March 2005, and Ord. #912, March 2012)

4-219. Paid leave. Paid leave allows employees time off to use for vacation, personal business, and illness. It shall be granted to all positions designated as full-time. Paid leave shall be accrued each pay period in accordance with the following schedule:

Years of service	Hours earned per pay period	Hours earned per year	Days earned per year
Up to 1 year complete	2.0	104	13.0
Up to 3 years complete	2.5	130	16.25
Up to 7 years complete	3.0	156	19.5
Up to 11 years complete	3.5	182	22.75
Up to 15 years complete	4.0	208	26
Up to 20 years complete	4.5	234	29.25
Over 20 years complete	5.0	260	32.5

The above schedule and credits are for uninterrupted service computed from the most recent date of continuous employment. Paid leave may be accumulated to

a maximum of three hundred twenty (320) hours. Employees shall be compensated on an annual basis, at their anniversary of employment for all hours accumulated above three hundred twenty (320). Any full-time employee that works a permanently assigned work week of more than forty (40) hours shall accrue paid leave at the same percentage increase as hours worked above forty (40). Example: A fifty-three (53) hour work week would earn thirty-three percent (33%) more than the normal schedule. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-220. Approval of paid leave and donation of leave time. All requests for scheduling paid leave for other than illness must be submitted for approval to the immediate supervisor at least twenty-four (24) hours in advance. Approval of a request for leave must be given by the supervisor and shall take into consideration the requirements of maintaining adequate service in the department.

(1) Approval of unscheduled paid leave shall be granted for the following reasons, provided the employee shall have sufficient paid leave accumulated:

- (a) Personal illness or disability.
- (b) Illness of a member of the employee's household that requires the employee's personal attention.
- (c) To keep a health care provider's appointment.

(2) Claims under false pretenses for unscheduled paid leave shall be cause for disciplinary action up to and including dismissal. In order to be granted approval for unscheduled paid leave an employee must meet the following conditions:

- (a) Notify the immediate supervisor prior to the beginning of the scheduled workday and the assigned work time.
- (b) Present, as required by the supervisor, a medical certificate signed by a licensed physician certifying that the employee has been incapacitated for work for the period of absence, the nature of the employee's illness or injury, and that the employee is again able to return to work and perform his or her duties; or, other sufficient information to permit reasonable inquiry about such services. Such statement is normally required if the absence is of three (3) consecutive days or longer but may be required at the discretion of the supervisor, with the approval of the city manager, for less than three (3) consecutive days.

Employees may appeal to the city manager for a determination of their entitlement if not in agreement with the decision of the superintendent and/or director.

Employees may during any fiscal year of the city donate to another employee up to four (4) hours of accumulated leave time by providing written notice to the city manager of such donation upon such form as shall be prescribed by the city manager or designee. Under other circumstances as

designated by the city manager or his designee, such as disaster relief, charitable relief for city employees or such similar type of extraordinary circumstances, city employees may donate in any fiscal year of the city up to four (4) hours of accumulated leave and the city shall undertake to convert said accumulated leave of up to four (4) hours to the cash equivalent and make the donation as prescribed by the employee. The donation of the cash equivalent of up to four (4) hours of accumulated leave shall be on such form as shall be prescribed by the city manager or his designee.

All employees hired on or after July 1, 2012 shall not have the right to sell any accumulated leave to the City of East Ridge. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and amended by Ord. #872, Feb. 2010, and Ord. #918, June 2012)

4-221. Bereavement. An employee may be absent and continue to be paid in case of death in the immediate family of the employee. Bereavement time off is charged to the employee's paid leave after the first three (3) days with pay. (Ord. #575, Feb. 1994, as amended by Ord. #679, March 1999, modified, and replaced by Ord. #730, Feb. 2002, and Ord. #761, Dec. 2003)

4-222. Occupational disability. All injuries arising out of and in the course of one's employment shall be governed by the Tennessee Worker's Compensation Law. Employees on occupational disability leave for seven (7) or less working days shall receive full pay from the city and is to be charged to employee's paid leave. If no leave is available, then the employee will not receive any compensation until, at such time, worker's compensation benefits begin. Employees with on-the-job injuries resulting in disability of greater than seven (7) days shall receive such benefits as provided by the Tennessee Worker's Compensation law. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-223. Military leave. Any full-time employee, who enters the Armed Forces of the United States, will be placed on military leave. The city manager shall approve military leave without pay when the employee presents his/her official orders. The employee must apply for reinstatement within the following time frame:

(1) Persons inducted into military service (voluntarily as well as involuntarily): ninety (90) days after release from service.

(2) Reservists ordered to initial period of active duty for training of not less than three (3) consecutive months: thirty-one (31) days after release from active duty.

(3) Reservists ordered to additional periods of active or inactive duty training (voluntarily or involuntarily): Must report to work at the beginning of the next regularly scheduled working period after expiration of last calendar day

necessary to travel from place of training to place of employment (or within a reasonable time if the employee's return is delayed through no fault of his own).

(4) Reservists "called up" (voluntarily as well as involuntarily) for the performance of operational missions under 10 U.S.C. § 673(b) for period of not more than ninety (90) days: thirty-one (31) consecutive days after release from active duty.

The city will comply with federal regulations that provide exceptions to the schedule for individuals who are hospitalized as a result of military service and whose term of hospitalization extends past their discharge dates.

The employee will be reinstated to a position in the current classification plan at least equivalent to his/her former position. His/her salary will be the salary provided under the position classification and compensation plan prevailing at the time of reinstatement or preemployment for the position to which he/she is assigned.

Any full-time employee who is a member of the United States Army Reserve, Navy Reserve, Air Force Reserve, Marine Reserve, National Guard, or any of the Armed Forces of the United States, will be granted military leave for any field training or active duty required (excluding extended active duty) pursuant to provisions in Tennessee Code Annotated, § 8-33-109. Such leave will be granted upon presentation of the employee's official order to the city manager. Compensation for such leave will be for a period not exceeding fifteen (15) working days in any one (1) calendar year, plus such additional days as may result from any call to active state duty pursuant to Tennessee Code Annotated, § 58-1-106. Military leave with pay shall not be charged against the employee's accrued sick leave, vacation, or compensatory credits. However, military time in excess of fifteen (15) working days within any one (1) calendar year may be charged against the employee's vacation leave at the option of the employee. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-224. Voting leave. All employees entitled to vote in national, state, or city elections shall, when necessary, be allowed sufficient time off with pay to exercise this right as determined by the supervisor. The City of East Ridge will comply with Tennessee State Law as set forth in Tennessee Code Annotated, § 2-1-106, which states:

Employer may designate period of permissible absenteeism. Any person entitled to vote in an election held in this state may be absent from any service or employment on the day of the election for a reasonable period of time, not to exceed three (3) hours, necessary to vote during the time the polls are open in the county where he is a resident. A voter who is absent from work to vote in compliance with this section may be subjected to any penalty or reduction in pay for his absence. If the tour of duty of an employee begins three (3) or more hours after the opening of the polls and ends three (3) or more hours before the closing of the polls of the county where he is resident, he may not take time off during this section. The employer may specify the hours during which the employee

may be absent. Request for such as absence may be made to the employer before twelve (12:00) noon of the day before the election.

The leave granted by this section shall be minimum time required to vote. The city may at its discretion verify whether an employee actually voted. If verification of an employee actually voting cannot be made, then compensation for voting leave will be denied for that employee. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-225. Administrative leave. An employee may be placed on administrative leave when an employee is removed from normal duties by the city manager or his or her designee, when considered necessary for proper operation of the city or welfare of the employee. This leave may be with or without pay as determined by the city manager, in his or her sole discretion. In cases when the city manager has placed an employee on unpaid administrative leave, that employee shall no longer continue to accrue paid leave pursuant to § 4-219 of this title 4. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and Ord. #832, Jan. 2008)

4-226. Court and jury leave. Leave may be authorized in order that employees may serve required court and jury duty, provided that such leave is reported in advance to the supervisor. In order to receive full pay for such leave, the employee must deposit any sums which he or she receives for jury duty with the city. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-227. Family and medical leave. (1) Definitions:

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

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

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

(d) "Serious health condition." An illness, injury, impairment, or physical or mental condition involving either inpatient care or continuing treatment by a health care provider. Examples of serious health conditions include but are not limited to heart attacks, heart

conditions requiring heart bypass or valve operations, most cancers, back conditions, spinal injuries, severe arthritis, etc.

(2) Leave provisions. (a) An eligible employee may take up to twelve (12) weeks of unpaid leave in a twelve (12) month period for the birth of a child or the placement of a child for adoption or foster care. Leave may also be taken to care for a child, spouse, or a parent who has a serious health condition.

(b) The right to take leave applies equally to male and female employees who are eligible.

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

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

(e) An employee may take unpaid leave to care for a parent or spouse of any age who, because of a serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or parent of any age who is unable to care for his or her own basic hygiene, nutritional needs, or safety.

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

(g) Employees requesting medical leave due to their own illness or injury must use any balance of sick leave, annual leave, floating holidays prior to unpaid leave beginning. The combination of sick leave, annual leave, floating holidays and unpaid leave may not exceed twelve (12) weeks. Employees requesting family leave must use any balance of sick leave, annual leave, floating holidays prior to unpaid leave beginning. The combination of annual leave, floating holidays and unpaid leave may not exceed twelve (12) weeks.

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

(i) If spouses are employed by the city and wish to take leave for the care of a new child or a sick parent, their aggregate leave is limited to twelve (12) weeks.

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

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

(4) Certification. (a) The city reserves the right to verify an employee's request for family/medical leave.

(b) If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the employer requires that the request be supported by certification issued by the health care provider of the eligible employee or the family member as appropriate. If the employer has reason to question the original certification, the employer may, at the employer's expense, require a second opinion from a different health care provider chosen by the employer. That health care provider may not be employed by the employer on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.

(c) This certification must contain the date on which the serious health condition began, its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the son, daughter, spouse, or parent and must include an estimate of the amount of time that the employee is needed to care for the family member.

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Restoration on such basis at the time the city determines that such injury would occur; and

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

(8) The twelve (12) month FMLA period. The twelve (12) month period during which an employee is entitled to twelve (12) workweeks of FMLA leave is measured forward from the date the employee's first FMLA leave begins. An employee is entitled to twelve (12) weeks of leave during the twelve (12) month period after the leave begins. The next twelve (12) month period will begin the

first time the employee requests FMLA leave after the completion of the previous twelve (12) month period. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-228. Severe weather leave policy. The closing of city hall due to severe weather and the responsibility of employees to report to work under such conditions and to the uniform method for treating absences and lateness due to severe weather, shall be as follows:

(1) In the event of severe weather, every city employee shall make every attempt to report to work as usual.

(2) Each employee must inform his/her supervisor of his/her absence and the reason for it in the same manner used for any other absence. The employee shall report to work immediately should weather conditions change allowing safe transportation to his/her worksite.

(3) If an employee is unfavorably late due to severe weather conditions, the employee will not lose paid time unless the delay is longer than sixty (60) minutes. Delays of longer than sixty (60) minutes but less than one-half (1/2) day may be charged to paid or compensatory leave taken without pay, or may be made-up with the approval of the supervisor.

(4) If the employee reports to work and is not needed or the department has been closed, the employee shall be paid for four (4) hours and the remainder charged to compensatory, paid, or leave without pay, or may be made up with the approval of the supervisor.

(5) If the needs of the city require it, an employee may be temporarily assigned to another department at employee's existing rate of pay. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-229. Holiday bonus. The city manager shall review all funds of the city to determine a holiday bonus for all employees. Subject to availability of funds, the city manager shall establish an amount for a holiday bonus for each full-time employee, as well as, each part-time employee and public safety volunteers. The proposed holiday bonus shall then be submitted to the council for approval. Upon approval, holiday bonuses will be issued through payroll in the first pay period of December. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-230. Employee educational assistance program. (1) Purpose. The employee educational assistance program is established to share the tuition expenses of employees who want to improve his/her knowledge, abilities and potential for advancement through continuing education.

(2) Eligibility. Regular full-time employees, who have completed at least one (1) year of continuous service and wish to continue their education under this program, should discuss this matter with their department head to obtain approval before submitting an application for assistance to the personnel department and city manager for approval.

(3) Policy. The following provisions are established to govern the administration of the city's employee educational assistance program.

(a) Applications for assistance may only be made for attendance at a school of recognized educational standing, such as a high school, college, university, correspondence or vocational/technical school. Employees may be required to furnish information as to the accreditation of an institution.

(b) Eligible employees seeking assistance and meeting all the requirements for participation may receive full reimbursement of tuition for courses directly related to their job and one-half (1/2) reimbursement of tuition for courses indirectly related to their job. The department head shall recommend to the city manager whose decision shall be final as to whether the course of study is directly or indirectly related.

(c) Applications for assistance will not be considered if the employee is receiving funds for the same course work from any other source or if the course work is available through in-service training conducted by city or other approved agency. The following are additional directives for this item.

(i) In the case of partial funding from a source other than the city, the city may, upon approval of the city manager, reimburse the remaining tuition expense up to the limits established herein.

(ii) Should an employee knowingly accept assistance from the city while at the same time receiving assistance from another source and not notify the city of such, he or she will be ineligible for any further assistance from the city and any funds paid to the employee receiving assistance from the other source shall be deducted from his or her salary.

(d) This program is offered to assist employees who are pursuing additional training/education on their own time. The city realizes however that certain courses are offered only during working hours and will consider request for such attendance on a case by case basis. Employment responsibilities shall come first and approval to attend during work hours will be an exception as opposed to a practice. Any employee granted an exception will have to arrange with his supervisor to work an equivalent amount during each pay period.

(e) An employee who leaves city service during the course shall not be entitled to reimbursement.

(f) The city will not approve a request for assistance from an employee who is the subject of disciplinary action at the time of the request.

(g) Reimbursement of courses is subject to the successful completion of the course(s) by the employee with a grade of satisfactory or no less than a "C" (2.0 on a 4.0 scale).

(h) Request for assistance shall not be considered for more than two (2) courses per quarter, semester or school term.

(i) Employees who receive reimbursement under this policy for two (2) or more years (4 semesters, 6 quarters, or 16 months in a vocational/technical school) shall be required to remain in the employment of the city for at least one (1) full year from the date of course completion or any of the just mentioned participation periods are met.

(4) Procedures. The following procedures allow an employee to know in advance whether or not a selected course will be approved for full or half tuition assistance, assuming the course is completed with a satisfactory grade.

(a) An employee obtains a tuition reimbursement application form from the personnel office, completes the form in duplicate and forwards the application to his/her department head.

(b) The department head, after making his recommendation, sends the application (in duplicate) to the city manager's office.

(c) The city manager approves or disapproves the application. One (1) copy is returned to the employee, the other is retained by the personnel department.

(d) Within ten (10) days of completion of the course and after final grade(s) has been received, the employee submits his copy of the approval application to the city manager's office along with his grade and tuition/registration receipts.

(e) The city manager after verification of grades and receipts will forward the same to the finance department for payment. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-231. Longevity pay. All full-time employees who have served continuously ten (10) or more years shall receive, upon their retirement (a voluntary termination of employment) from employment with the city, longevity pay according to the following schedule:

Total Continuous Service	Awarded Value
Beginning the 10th year into the 14th year	2 days pay
Beginning the 15th year into the 19th year	4 days pay
Beginning the 20th year into the 24th year	6 days pay
Beginning the 25th year and thereafter	10 days pay

(Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-232. Nepotism. In no event shall a supervisor show any favoritism to any immediate family member. Any supervisor that shows favoritism toward an immediate family member may be disciplined up to and including termination.

Within the City of East Ridge no employees who are relatives shall be placed within the same direct line of supervision whereby one (1) relative is responsible for supervising the job performance or work activities of another relative; provided, that to the extent possible, the provisions of this chapter shall not be construed to prohibit two (2) or more such relatives from working within the same state governmental entity.

Present employees who were employed by the City of East Ridge prior to January 23, 2003, and were in violation of this section as of January 23, 2003 are exempt from this nepotism rule as it pertains to the violation that existed as of January 23, 2003. These requirements apply also to those positions listed as exempt. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-233. Narcotics and intoxicating liquors. (1) Purpose. The City of East Ridge recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the City of East Ridge to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the City of East Ridge are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the City of East Ridge has adopted this drug and alcohol testing policy effective December 12, 2002. This policy complies with the Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which required alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are: pre-employment, transfer, reasonable suspicion, post-accident/post-incident, random, return-to-duty, and follow-up.

It is the policy of the City of East Ridge that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/or illegal

conduct may lead to termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

- (a) Being on duty or performing work in or on city property while under the influence of drugs and/or alcohol;
- (b) Engaging in the manufacture, sale, distribution, use, or unauthorized possession of (illegal) drugs at any time and of alcohol while on duty or while in or on city property;
- (c) Refusing or failing a drug and/or alcohol test administered under this policy;
- (d) Providing an adulterated, altered, or substituted specimen for testing; use of alcohol while on-call for duty; and
- (e) Use of alcohol or drugs within eight (8) hours following an accident/incident if the employee's involvement has not been discounted as a contributing factor in the accident/incident or until the employee has successfully completed drug and/or alcohol testing procedures.

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

In order to educate the employees about the dangers of drug and/or alcohol abuse, the city shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work and personal life; the city's policy regarding drugs and/or alcohol; and the availability of counseling. The city manager has been designated as the municipal official responsible for answering questions regarding this policy and its implementation.

All City of East Ridge property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property. Property includes, but is not limited to, vehicles, desks, containers, files and lockers.

(2) Scope. This policy applies to full-time, part-time, temporary and volunteer employees of the City of East Ridge. This policy also applies to all applicants for employment with the City of East Ridge.

(3) Consent form. Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, Medical Review Officer (MRO), city manager or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug and alcohol testing policy.

The consent form shall set forth the following information:

- (a) The procedure for confirming and verifying an initial positive test result;
- (b) The consequences of a verified positive test result; and
- (c) The consequences of refusing to undergo a drug and/or alcohol test.

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system.

(4) Compliance with substance abuse policy. Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for termination.

(5) General rules. These are the general rules governing the drug and alcohol testing program for the City of East Ridge:

(a) City employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over-the-counter medications shall notify the MRO before the employees go on duty.

(b) City employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on city property.

(c) All City of East Ridge property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. City property includes, but is not limited to, vehicles, desks, containers, files and lockers.

(d) Any employee convicted of violating a criminal drug statute shall inform the director of his/her department of such conviction (including pleas of guilty and nolo contendere) within five (5) days of the conviction occurring. Failure to so inform the city subjects the employee to disciplinary action up to and including termination for the first offense. The city will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act.

(6) Drug testing. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six (6) separate conditions.

(a) Types of tests. (i) Pre-employment. All applicants who have received a conditional offer of employment with the City of East Ridge must take a drug test before receiving a final offer of employment.

(ii) Transfer. Employees transferring to another position with the city which requires a CDL or to a safety-sensitive position shall undergo drug testing.

(iii) Post-accident/post-incident testing. Following any workplace accident/incident determined by supervisory personnel of the City of East Ridge to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident/incident or cannot be discounted as a contributing factor to the accident/incident or who is reasonably suspected of possible drug use as determined during a routine post-accident/post-incident investigation or who receives a citation for a moving violation arising from the accident, will be required to take a post-accident/post-incident drug test.

Post-accident/post-incident testing shall be carried out within two (2) hours following the accident/incident. The employee's supervisor must document reasons why if employee is not taken for testing within two (2) hours.

Urine collection for post-accident/post-incident testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident/post-incident testing is to be performed, the City of East Ridge reserves the right to direct the MRO to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cut-off level that is normally used for those specific substances by the laboratory selected.

(A) Post-accident/post-incident testing for ambulatory employees. Following all workplace accidents/incidents where drug testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City of East Ridge to the designated urine specimen collection site within two (2) hours following the accident.

In the event of an accident/incident occurring after regular work hours, the employee(s) will be taken to the designated urine specimen collection site within two (2) hours. No employee shall consume drugs prior to completing the post-accident/post-incident testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident/post-incident testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the City of East Ridge and shall result in administrative action up to and including termination of employment.

(B) Post-accident/post-incident testing for injured employees. An affected employee who is seriously injured, non ambulatory and/or under professional medical care following a significant accident/incident shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens.

Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the MRO of the City of East Ridge appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of East Ridge or upon hiring following the implementation date.

Post-accident/post-incident urinary testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident/post-incident testing within two (2) hours must be fully documented by the attending medical personnel.

(iv) Testing based on reasonable suspicion. A drug test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has

used drugs. This belief should be based on recent physical, behavioral, or performance indicators of possible drug use. One (1) supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of East Ridge making a determination to subject any employee to drug testing based on reasonable suspicion, shall document their specific reasons and observations in writing to the city manager within twenty-four (24) hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same gender collection personnel.

(v) Random testing. All safety-sensitive employees and employees possessing or wishing to obtain a CDL are subject to random urine drug testing.

It is the policy of the City of East Ridge to annually random test for drugs at least fifty percent (50%) of the total number of drivers possessing or obtaining a CDL and ten percent (10%) of the total number of safety-sensitive positions.

A minimum of fifteen (15) minutes and a maximum of two (2) hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City of East Ridge may omit that employee from that random testing or await the employee's return to work.

(vi) Return-to-duty and follow-up. Any employee of the City of East Ridge, who has violated the prohibited drug conduct standards and is allowed to return to work, must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to sixty (60) months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any safety-sensitive employee and any employee possessing a CDL returning from

leave or special assignment in excess of six (6) months. In this situation, the employee will not be required to pay for the testing.

(7) Prohibited drugs. All drug results will be reported to the MRO. If verified by the MRO, they will be reported to the city manager. The following is a list of drugs for which tests will be routinely conducted (see Appendix A¹ for cut-off levels):

- (a) Amphetamines;
- (b) Marijuana;
- (c) Cocaine;
- (d) Opiates;
- (e) Phencyclidine (PCP);
- (f) Alcohol; and
- (g) Depressants.

The city may test for any additional substances listed under the Tennessee Drug Control Act of 1989.

(8) Drug testing collection procedures. Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the City of East Ridge to a drug test collection facility selected by the City of East Ridge (see Appendix B), where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the City of East Ridge to perform the analysis on collected urine samples.

(a) Drug testing laboratory standards and procedures. All collected urine samples will be sent to a laboratory that is certified and monitored by the Federal Department of Health and Human Services (DHHS) (see Appendix C²).

As specified earlier, in the event of an accident/incident occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the testing site within two (2) hours where proper collection procedures will be administered.

¹For all schedules and appendices reflected in this section relative to drug testing, etc., please refer to Ordinance #739 as the same may be amended from time to time.

²For all schedules and appendices reflected in this section relative to drug testing, etc., please refer to Ordinance #739 as the same may be amended from time to time.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two (2) bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis.

The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has seventy-two (72) hours to request sending the split specimen to another DHHS certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s). In the event of conflicting results, the employer shall pay for an additional test.

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified and the MRO will notify the city manager or his designee.

(b) Reporting and reviewing. The City of East Ridge shall designate a MRO to receive, report and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders (see Appendix C).

(i) The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the City of East Ridge.

(ii) Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.

(iii) The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the city manager or his designee and the employee.

(iv) Neither the City of East Ridge, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident/incident investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney.

(9) Alcohol testing. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and

applicants may be required to submit to alcohol testing under six (6) separate conditions:

- (a) Types of tests. (i) Post-accident/post-incident testing. Following any workplace accident/incident determined by supervisory personnel of the City of East Ridge to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident/incident or cannot be discounted as a contributing factor to the accident/incident and who is reasonably suspected of possible alcohol use as determined during a routine post-accident/post-incident investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident/post-incident alcohol test.

Post accident/post-incident testing shall be carried out within two (2) hours following the accident/incident. The employee's supervisor must document reasons why if employee is not taken for testing within two (2) hours.

(A) Post-accident/post-incident testing for ambulatory employees. Following all workplace accidents/incidents where alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City of East Ridge to the designated breath alcohol test site for a breath test within two (2) hours following the accident/incident. In the event of an accident/incident occurring after regular work hours, the employee(s) will be taken to the testing site within two (2) hours. No employee shall consume alcohol prior to completing the post-accident/post-incident testing procedure.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident/post-incident testing. Any unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the City of East Ridge and shall result in administrative action up to and including termination of employment.

(B) Post-accident/post-incident testing for injured employees. An affected employee who is

seriously injured, non-ambulatory, and/or under professional medical care following a significant accident/incident shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the MRO of the City of East Ridge, appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of East Ridge or upon hiring following the implementation date.

Post-accident/post-incident breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident/post-incident testing within two (2) hours must be fully documented by the attending medical personnel.

(ii) Testing based on reasonable suspicion. An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol use. One (1) supervisor who has received alcohol detection training that complies with DOT regulation must make the decision to test and must observe the employee's suspicious behavior. Supervisory personnel of the City of East Ridge making determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city manager within twenty-four (24) hours of the decision to test and before the results of the tests are received by the department.

(iii) Random testing. All safety-sensitive employees and employees possessing or wishing to obtain a CDL are subject to random urine drug testing.

It is the policy of the City of East Ridge to annually random test for alcohol at least twenty-five percent (25%) of the total number of drivers possessing or obtaining a CDL or at least ten percent (10%) of the total number of safety sensitive employees.

A minimum of fifteen (15) minutes and a maximum of two (2) hours will be allowed between notification of an employee's selection for random alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick days, out of town, work-related causes, etc.) to be tested on the date random testing occurs, the City of East Ridge may omit that employee from that random testing or await the employee's return to work.

(iv) Return-to-duty and follow-up. Any employee of the City of East Ridge who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to sixty (60) months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any safety-sensitive employee and any employee possessing a CDL returning from leave or special assignment in excess of six (6) months. In this situation, the employee will not be required to pay for the testing.

(b) Alcohol testing procedures. All breach alcohol testing conducted for the City of East Ridge shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

Alcohol testing is to be performed by a qualified technician as follows:

(i) Step one. An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the NHTSA. If the measured result is less than 0.02 percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step two.

(ii) Step two. Fifteen (15) minutes shall be allowed to pass following the completion of Step one above. Before the confirmation test or Step two is administered for each employee, the breath alcohol technician shall insure that the evidential breath-testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument; however, testing may proceed on another instrument. Then Step one shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step one and Step two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the City of East Ridge, up to and including termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BA shall result in the employee's removal from duty without pay for a minimum of twenty-four (24) hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of up to 0.02 percent before returning to duty with the City of East Ridge.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the City of East Ridge, when possible. The completed breath alcohol test form shall be submitted to the city manager or his designee.

(10) Education and training. (a) Supervisory personnel who will determine reasonable suspicion testing. Training supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will include, at the minimum, two (2) sixty (60) minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probably drug use and alcohol use. One (1) sixty (60) minute period will be for drugs and one (1) will be for alcohol.

The City of East Ridge will sponsor a drug-free awareness program for all employees.

(b) Distribution of information. The minimal distribution of information for all employees will include the display and distribution of:

(i) Informational material on the effects of drug and alcohol abuse;

(ii) An existing community services hotline number, available drug counseling, rehabilitation, and employee assistance program for employee assistance;

(iii) The City of East Ridge policy regarding the use of prohibited drugs and/or alcohol; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(11) Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result. Job applicants will be denied employment with the City of East Ridge if their initial positive pre-employment drug and alcohol test results have been confirmed/verified.

Job applicants will be denied employment with the City of East Ridge if their initial positive pre-employment drug and alcohol test results have been confirmed/verified. If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and including termination. The city may consider the following factors in determining the appropriate disciplinary response: the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. However, the city reserves the right to allow employees to participate in an education and/or treatment program approved by the city employee assistance program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment. This program will be at the expense of the employee.

Employees temporarily removed from their position in violation of this policy for the first offense must utilize any vacation, sick time, or earned holidays. In the event that there are no leave hours remaining, the employee will be placed on temporary unpaid suspension and may use any accumulated compensatory time. No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through the city's employee assistance program or other program sanctioned by the city, and thereafter refrain from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not prohibit disciplinary action for the violation of city personnel policy and regulations, nor will it relieve the employee of any requirements for return-to-duty testing.

Refusing to submit to an alcohol or controlled substances test means that an employee:

(a) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(b) Fails to provide adequate breath for testing with a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(c) Engages in conduct that clearly obstructs the testing process.

In either case the physician or breath alcohol technician shall provide a written statement to the city indicating a refusal to test.

(12) Voluntary disclosure of drug and/or alcohol use. In the event that an employee of the City of East Ridge is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private.

Such voluntary desire for help with a substance problem will be honored by the City of East Ridge. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment. Substance abuse treatment will be at the employee's expense.

Affected employees of the City of East Ridge may be allowed up to thirty (30) consecutive calendar days for initial substance abuse treatment as follows:

(a) The employee must use all vacation, sick and compensatory time available.

(b) In the event accumulated vacation, sick and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of thirty (30) consecutive calendar days, the employee will be provided unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum thirty (30) day treatment period. Voluntary disclosure must occur before an employee is notified of, or otherwise becomes subject to, a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the Substance Abuse Professional (SAP) of the City of East Ridge. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective department head and city manager of the City of East Ridge will consider each case individually and set forth final conditions of reinstatement to active duty. The conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City of East Ridge. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug

and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy.

(13) Exceptions. This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoximeter demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use or provision of alcohol.

(14) Modification of policy. This statement of policy may be revised by the City of East Ridge at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment changes in the Drug and Alcohol Testing Policy of the City of East Ridge.

(15) Definitions. For purposes of the drug and alcohol testing policy, the following definitions are adopted:

(a) "Alcohol." The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

(b) "Alcohol concentration." The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

(c) "Alcohol use." The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

(d) "Applicant." Any person who has on file an application for employment or any person who is otherwise being considered for employment or transfer to the police department, fire department, or to a position requiring a Commercial Driver's License (CDL) being processed for employment. For the purposes of this policy, an applicant may also be a uniformed employee who has applied for and is offered a promotion or who has been selected for a special assignment; a non-uniformed employee who is offered a position as a uniformed employee; or an employee transferring to or applying for a position requiring a CDL.

(e) "Breath Alcohol Technician (BAT)." An individual who instructs and assists individuals in the alcohol testing process and operates an Evidential Breath-Testing device (EBT).

(f) "Chain of custody." The method of tracking each urine specimen to maintain control from initial collection to final disposition for such samples and accountability at each state of handling, testing, storing and reporting.

(g) "Collection site." A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen that will be analyzed for the presence of alcohol and/or drugs.

Collection site may also include a place for the administration of a breath analysis test.

(h) "Collection site personnel." A person who instructs donors at the collection site.

(i) "Commercial Driver's License (CDL)." A motor vehicle driver's license required to operate a Commercial Motor Vehicle (CMV).

(j) "Commercial Motor Vehicle (CMV)." Any vehicle or combination of vehicles meeting the following criteria: weighing more than twenty-six thousand (26,000) pounds; designed to transport more than fifteen (15) passengers; transporting hazardous materials required by law to be placarded, regardless of weight; and/or classified as a school bus.

(k) "Confirmation test." In drug testing, a second analytical procedure that is independent of the initial test to identify the presence of a specific drug or metabolite that uses a different chemical principle from that of the initial test to ensure reliability and accuracy. In breath alcohol testing, a second test following an initial test with a result of 0.02 or greater that provides quantitative date of alcohol concentration.

(l) "Confirmed positive result." The presence of an illicit substance in the pure form or its metabolites at or above the cutoff level specified by the National Institute of Drug Abuse identified in two (2) consecutive tests that utilize different test methods and that was not determined by the appropriate medical, scientific, professional testing, or forensic authority to have been caused by an alternate medical explanation or technically insufficient data. An EBT result equal to or greater than 0.02 is considered a positive result.

(m) "Consortium." An entity, including a group or association of employers or contractors, which provides alcohol or controlled substances testing as required by this part or other DOT alcohol or drug testing rules and that acts on behalf of the employers.

(n) "Department director." The director or chief of a city department or his/her designee. The designee may be an individual who acts on behalf of the director to implement and administer these procedures.

(o) "DHHS." The federal Department of Health and Human Services or any designee of the secretary, Department of Health and Human Services.

(p) "DOT agency." An agency of the United States Department of Transportation administering regulations related to alcohol and/or drug testing. For the City of East Ridge, the Federal Highway Administration (FHWA) is the DOT agency.

(q) "Driver." Any person who operates a commercial motor vehicle.

(r) "EAP." Employee Assistance Program.

(s) "Employee." An individual currently employed by the City of East Ridge.

(t) "Evidential Breath Testing (EBT) device." An instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."

(u) "FHWA." Federal Highway Administration.

(v) "Initial test." In drug testing, an immunoassay test to eliminate negative urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

(w) "Medical Review Officer (MRO)." A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information.

(x) "Negative result." The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.

(y) "NHTSA." National Highway and Traffic Safety Administration.

(z) "Refuse to submit." Refusing to submit to an alcohol or controlled substance test means that a driver:

(i) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(ii) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(iii) Engages in conduct that clearly obstructs the testing process.

(aa) "Safety sensitive positions." Any employee of the city who would be considered a first responder such as fire or police personnel. Any employee who acts in the capacity of dispatcher for first responders. Any employee who is normally required, by virtue of his position with the city, to drive a city vehicle more than fifty percent (50%) of the time in a work day. Any employee who operates heavy equipment or light equipment, or other equipment that could be considered dangerous or could cause injuries. This would include employees of the fire and police departments, street department, traffic control, vehicle maintenance, sanitation,

building maintenance and recreation or any other department or position deemed as safety-sensitive by the city manager.

(bb) "Split specimen." Urine drug test sample will be divided into two (2) parts. One (1) part will be testing initially, the other will remain sealed in case a retest is required or requested.

(cc) "Substance abuse professional." A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in, the diagnosis and treatment of alcohol and controlled substances-related disorders. (Ord. #575, Feb. 1994, as amended by Ord. #646, Oct. 1997, modified, amended by Ord. #739, Dec. 2002, and replaced by Ord. #761, Dec. 2003)

4-234. Miscellaneous policies. (1) Solicitation. The city believes that its employees should not be exposed to frequent solicitations for charitable purposes; therefore, solicitation shall be limited to as few visits as necessary during the course of the year.

(2) Personal telephone calls. The use of the telephone during regular work hours for local and/or long distance calls of a personal nature, except in emergency cases, is discouraged and can result in disciplinary action.

(3) E-mail and Internet access. All employees with access to e-mail or the Internet must sign an acknowledgment regarding the policy for the use and monitoring of e-mail and Internet access as may be established by the city from time to time.

(4) Garnishment. An employee who is garnished for more than one (1) indebtedness within a twelve (12) month period is subject to disciplinary action in accordance with the following schedule:

(a) First offense. Oral reprimand.

(b) Second offense. Written reprimand.

(c) Third offense. May be discharged in accordance with the discipline and dismissal policy.

(5) Trip reimbursement. All trips that involve reimbursement and/or city expense shall not be undertaken without prior approval of the city manager. Mileage shall be reimbursed at the maximum rate allowable under the IRS regulations for rate per mile. Food reimbursement shall be at a rate of thirty-two dollars (\$32.00) per day provided the traveler leaves before 7:00 A.M. and returns after 7:00 P.M. For details regarding travel, obtain a copy of the city's travel policy from the finance director.¹

¹Municipal code reference

Travel reimbursement regulations: title 4, chapter 5.

(6) Acceptance of gratuities.¹ No employee shall accept any money or other consideration or favor from anyone other than the city for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any employee accept, directly or indirectly, any gift, gratuity or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to city business.

(7) Use of tobacco products. In light of the fact that the use of tobacco products poses a threat not only to the user, but to non-users of tobacco products as well, the city has adopted Ord. #712 that prohibits use of tobacco products in municipal buildings and vehicles. Violators of this policy will be subject to associated fines and disciplinary action up to and including termination. (1993 Code, § 1-1005, as replaced by Ord. #761, Dec. 2003)

4-235. Use of municipal time facilities, etc. No city officer or employee shall use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself or any other private person or group. Provided, however, that this prohibition shall not apply where the governing body has authorized the use of such time, facilities, equipment, or supplies. (1993 Code, § 1-1006, as replaced by Ord. #761, Dec. 2003)

4-236. Use of position. No city officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the city, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others. (Ord. #575, Feb. 1994, as amended by Ord. #680, April 1999, modified, and replaced by Ord. #761, Dec. 2003)

4-237. Use of city vehicles and equipment. (1) Purpose. The purpose of this regulation is to establish rules for the utilization of both city-owned vehicles and equipment that are provided for use by employees in the performance of their official duties.

(2) Responsibility. The public safety director, with city manager approval, shall establish rules approved by the city council and included in the Public Safety Standard Operating Procedures Manual.

The following rules apply to all other persons who drive or are authorized to drive and/or operate or use a piece of equipment, tool, or any other piece of city-owned property. Each director is responsible for insuring that employees of his/her department, who at any time drive, use, or operate a city-owned vehicle, tool, or piece of equipment, are familiar with the requirements/regulations of this policy.

¹Municipal code reference
Code of ethics: title 1, chapter 6.

(3) Regulations. (a) City-owned vehicles, tools, and equipment shall be operated only by persons who have received prior authorization from the city manager or his designee. Designees of the city manager vested with this authority shall have such designation in writing.

(b) City vehicles, tools, and equipment shall be used only for official city business and shall not be used for personal business or pleasure. They shall not be driven or used outside city limits, except in the performance of city business, unless authorized by the city manager or his designee.

(c) Except for those employees assigned full-time vehicles, city vehicles may be taken overnight only under the authorization of the city manager.

(d) Employees who are assigned city vehicles may use such vehicles for travel to and from work, but shall not use the vehicle for any personal reason except for those trips which are normally associated with travel to and from work and during meal breaks. Employee must provide proof of insurance (endorsement for use of non-owned vehicle).

(e) Vehicles will not be assigned to employees living outside the city whose one-way commute is greater than twenty-five (25) miles from the city limits of the City of East Ridge.

(f) On-call employees may from time to time be allowed to take a vehicle home. On such occurrences the rules that apply to those assigned vehicles shall be followed by those temporarily assigned vehicles.

(g) No driver or operator of a city vehicle or piece of equipment shall carry passengers except another city employee, elected city officials, approved volunteer personnel, clients, or persons engaged in or advising on matters relating to city business. Spouses who are accompanying a city employee to a meeting in which the employee is representing the city (prior approval of the city manager is required).

(h) All city employees who are assigned a city vehicle and then use the vehicle for travel to and from work shall receive a statement annually indicating the amount of benefit, for tax purposes, derived from their use of vehicle. Such benefit shall be determined based on the round trip mileage from the place of residence to place of business times the current allowances for mileage.

(i) The primary driver or operator of each city vehicle or piece of equipment is responsible for immediately reporting any vehicle or equipment problems to his or her supervisor. However, this does not relieve any other driver or operator of the vehicle from the same responsibilities. The supervisor shall be responsible for immediately reporting any vehicle or equipment problems to the vehicle maintenance supervisor.

(j) Any damage to a city vehicle or piece of equipment shall be immediately reported to the supervisor responsible for that vehicle or piece of equipment. If damage also occurs to vehicles or property not owned by the city, the accident shall also be reported to the appropriate police department. Whenever an accident occurs to a police department vehicle or whenever injury or death has occurred, the Tennessee Highway Patrol (THP) shall be notified and the THP will handle the investigation. If the THP is not available, the Hamilton County Sheriff's Office shall investigate. All accidents shall be reported as soon as possible by the supervisor to the vehicle maintenance shop.

(k) Regulations and procedures regarding the routine maintenance and care of city vehicles and equipment shall be issued by the director with city manager approval. Any regulations which the city manager may issue or which he has already issued shall be considered a part of the formal regulations concerning the operation of city vehicles and equipment. The vehicle maintenance supervisor shall inform the appropriate director, in writing, of any violations of these procedures.

(l) All drivers and operators of city vehicles and equipment shall have appropriate (as required by the employee's job description) driver's/operator's licenses issued by the State of Tennessee or the state in which the employee resides and shall obey all traffic laws, rules, and regulations of the State of Tennessee and the City of East Ridge.

(m) Traffic citations, fines, or other actions taken by any police jurisdiction against any employee while driving or operating a city-owned vehicle or piece of equipment shall be the responsibility of the employee and may be cause for disciplinary action.

(n) No employee shall operate a city vehicle or piece of equipment while under the influence of alcohol, any illegal drug, or any prescribed drug, which may impair his or her ability to operate the vehicle or piece of equipment. Alcoholic beverages and illegal drugs are not allowed in any city-owned vehicle or piece of equipment except in the case of law enforcement activities.

(o) Any department may further regulate the use of its vehicles, tools, and equipment so long as it is not in conflict with this general policy.

(4) Disciplinary action. Any employee caught misusing and/or abusing city-owned vehicles or equipment, carrying any unauthorized persons, using a city vehicle, tool, or piece of equipment for other than authorized purposes, or violating these regulations in any other way shall be subject to disciplinary action up to and including dismissal.

These requirements apply also to those positions listed as part-time, seasonal, temporary, and volunteer. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and amended by Ord. #907, Dec. 2011)

4-238. Sexual harassment. The definition of sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct by women toward women. Consequently, this policy applies to all officers and employees of the City of East Ridge including but not limited to, full and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulations of the city, and employees working under contract for the city.

(1) Definition. Sexual harassment or unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises in return for submission to sexual favors; making inappropriate sex-oriented comments on appearance; telling embarrassing sex-oriented stories; displaying sexually explicit or pornographic material, no matter how it is displayed; or sexual assault on the job by supervisors, fellow employees, or on occasion, non-employees when any of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracting, or unreasonably interferes with work performance in an unlawful employment practice and is absolutely prohibited by the city.

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

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

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

- (a) The employee's immediate supervisor;
- (b) The employee's department head;
- (c) The city manager;
- (d) The mayor and council (if the complaint is against the city manager). Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of

sexual harassment. The employee should be prepared to provide the following information:

(i) Official's or employee's name, department, and position title.

(ii) The name of the person or persons committing the sexual harassment, including their title/s, if known.

(iii) The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc., taken against the employee as a result of the harassment.

(iv) Witnesses to the harassment.

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

(3) Reporting and investigation of sexual harassment complaints. The city manager is the person designated by the city to be the investigator of complaints of sexual harassment against employees. In the event the sexual harassment complaint is against the city manager, the investigator shall be appointed by the mayor and council.

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

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

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

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

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

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

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

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

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

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

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

Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-239. Political activity. Nothing in this section is intended to prohibit any municipal government employee from privately expressing his/her political views or from casting his/her vote in all elections.

(1) City employees, while on duty, in uniform or on city property, are prohibited from participating in the following activities:

(a) Directly or indirectly solicit, receive, collect, handle, disburse or account for assessments, contributions or other funds for a candidate for city office.

(b) Organize, sell tickets to, promote or actively participate in a fundraising activity of a candidate for city office.

(c) Take an active part in managing the political campaign for a candidate for city office.

(d) Solicit votes in support of or in opposition to a candidate for city office.

(e) Act as a recorder, watcher, challenger or similar officer at the polls on behalf of a candidate for city office.

(f) Drive voters to the polls on behalf of a candidate for city office.

(g) Endorse or oppose a candidate for city office in a political advertisement, broadcast, campaign literature or similar material.

(h) Address a rally or similar gathering of the supporters of opponents of a candidate for city office.

(i) Initiate or circulate a nominating petition for a candidate for city office.

(j) Wear campaign buttons, pins, hats or other similar attachment, or distribute campaign literature in support or opposition to a candidate for city office.

(2) The city council may grant a city employee a leave of absence to become a candidate for any office other than an elective office for the City of East Ridge. No employee shall become a candidate for elective office for the City of East Ridge.

(3) City police officers are exempted from the regulations of this section when off duty and out of uniform. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-240. Separations. All separations of employees from positions shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, lay-off, disability, and dismissal. At the time of separation and prior to final payment, all records, equipment, and other items of municipal property in the employee's custody shall be transferred to the supervisor. Any amount due to a shortage in the above shall be withheld from the employee's final compensation. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-241. Resignation. An employee may resign by submitting in writing the reasons, including retirement, and the effective date, to his/her supervisor as far in advance as possible. Supervisors shall forward all notices of resignation to the city manager immediately upon receipt. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-242. Lay-off. The city manager, may lay-off any employee when they deem it necessary by reason of shortage of funds or work, the abolition of a position, or other material changes in the duties or organization, or for related reasons which are outside the employee's control and which do not reflect discredit upon service of the employee. Temporary employees shall be laid off prior to probationary or regular employees. The order of lay-off shall be in reverse order to total continuous time served upon the date established for the lay-off to become effective. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003)

4-243. Disability. An employee may be separated for disability when unable to perform required duties because of a physical or mental impairment. Action may be initiated by the employee or the city, but in all cases it must be supported by medical evidence acceptable to the city manager. The city may require an examination at its expense and performed by a licensed physician of its choice. (Ord. #575, Feb. 1994, as amended by Ord. #656, Feb. 1998, modified, as replaced by Ord. #761, Dec. 2003)

4-244. Disciplinary action. Whenever an employee's performance, attitude, work habits or personal conduct fall below a desirable level, supervisors shall inform employees promptly and specifically of such lapses and shall give them counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. The types of disciplinary actions are:

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

(2) **Written reprimand.** In situations where an oral warning has not resulted in the expected improvement, or when more severe initial action is warranted, a written reprimand may be sent to the employee within twenty-four (24) hours, and a copy shall be placed in the employee's personnel folder.

(3) Suspension. An employee may be suspended for up to three (3) days without pay by a director not to exceed a total of fifteen (15) days in a twelve (12) month period. An employee may be suspended with or without pay by the city manager for an indefinite length of time.

A written statement of the reason for suspension shall be submitted to the employee affected and to the city manager at least twenty-four (24) hours prior to the time the suspension becomes effective, provided, that during the advanced notice period the employee may be retained in duty status, placed on leave, or suspended with or without pay at the discretion of the director. The employee will be granted a hearing before the city manager, within ten (10) working days of the receipt of the employee's request by the city manager. The employee will be granted a hearing before the city manager, within (10) ten working days of the receipt of the employee's request by the city manager. An employee determined to be innocent of the charges shall be returned to duty with full pay for the period of suspension. All records associated with a suspension shall become a permanent part of the employee's personnel file. When warranted, an employee may be suspended without twenty-four (24) hours notice, if it is in the best interest of the city.

(4) Dismissal. The city manager may only dismiss an employee of the City of East Ridge for cause provided however that city manager may layoff any employee in accordance with the provisions of § 4-242. For purposes of this section cause means a substantial violation of any of the personnel regulations set forth in this title 4 or knowing and willful violation of any other ordinance of the City of East Ridge, or engage in an act of immoral turpitude. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and amended by Ord. #879, July 2010)

4-245. Grievance procedure. The most effective accomplishment of the work of the city requires prompt consideration and equitable adjustments of employee grievances. A grievance is defined as an employee's feeling of dissatisfaction, a difference, disagreement, or dispute arising between an employee and his supervisor and/or employer with some aspect of his/her employment, application, or interpretation of regulations and policies, or some management decision affecting him/her. A grievance can be something real, alleged, or a misunderstanding concerning rules and regulations or an administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, position classification, or transfer. Such misunderstandings, complaints, points of view and opinions will be considered a grievance except in cases where they relate to personnel action arising out of pay, suspension, and dismissal.

It is the desire of the city to address grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional grievances,

which will be resolved only after a formal appeal and review. Accordingly, the following procedure is established to insure fair and impartial review:

Step one. The employee makes an oral or written presentation of the grievance to the immediate supervisor within twenty (20) working days from the incident which prompted the grievance. It shall be the supervisor's responsibility to promptly investigate the grievance, discuss the matter with the department head, and take action if possible. The supervisor shall inform the employee in writing of the decision and any action taken within seven (7) working days from the date the grievance was filed.

Step two. If the grievance cannot be resolved between the employee and the supervisor during Step 1, the employee may reduce the complaint or grievance to writing and request that the written statement be delivered to the department head (or city manager if the original grievance was filed with the department head) within three (3) working days of receipt of the department head's or supervisor's response. If the grievance is filed with the city manager, proceed to Step 3. If the employee is not satisfied with the response of the department head, he or she must proceed to Step 3.

Step three. If the grievance is not resolved with the department head, the employee may request, in writing within three (3) working days, review by the city manager. The city manager shall make such investigation and obtain the information sufficient to review the grievance within seven (7) working days, and will respond to the employee and the employee's department head in writing.

Step four. If the grievance involving termination only is not resolved with the city manager, then the employee has the right to appeal to the personnel board authorized under § 4-247 below in writing within three (3) working days after review by the city manager and the issuance of the city manager's decision in writing delivered to the employee. Outside the hearing the employee and the city manager shall have no contact direct or indirect with the personnel board. The personnel board is required to schedule a hearing with the employee within the above described ten (10) working days. The hearing shall include whatever witnesses and other matters relating to the termination that the employee shall deem necessary and appropriate. The city manager shall present such witnesses and other matters relating to the termination as the city manager deems necessary and appropriate. The personnel board hearing shall be governed by Roberts Rules of Order and by such other procedures as the personnel board shall reasonably adopt. The finding of the personnel board shall be in writing and shall be advisory to the city manager. The city manager shall review the personnel board's finding and shall within ten (10) days reconsider the termination in the personnel board's finding is for reinstatement. The city manager shall have final authority and decision on the termination notwithstanding the advisory finding of the personnel board in accordance with the city charter. (Ord. #575, Feb. 1994, modified, as replaced by Ord. #761, Dec. 2003, and Ord. #879, July 2010)

4-246. Amendment of personnel rules. Amendments or revisions to these rules may be recommended for adoption by the city manager. Such amendments or revisions of these rules shall become effective upon adoption by the mayor and council. (as added by Ord. #761, Dec. 2003)

4-247. Personnel board. The City Council of the City of East Ridge shall, not later than January 31 of each calendar year, appoint five (5) members to a personnel board to hear all personnel grievances in accordance with § 4-245 of the city code. Each city council member and the mayor shall be entitled to appoint one (1) person to the personnel board to serve for a period not to exceed one (1) year with the terms to run from March 1 to the end of the following February. The board shall only meet at such times as it is required in accordance with the provisions of § 4-245. All members to be appointed to the personnel board shall be residents of the City of East Ridge and shall be members of the community in good standing and good reputation. All appointments to the personnel board shall be confirmed by the city council as a whole not later than the last regularly scheduled meeting in February of each calendar year and shall have experience and training in the area of human resources. (as added by Ord. #879, July 2010)

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

- 4-301. Title.
- 4-302. Director.
- 4-303. The plan.
- 4-304. Training program.
- 4-305. Report of work connected with death.
- 4-306. Request for variance.
- 4-307. Report to state.
- 4-308. Scope of applicability.
- 4-309. Report by employees.
- 4-310. Definitions adopted by reference.
- 4-311. Effective date of plan.

4-301. Title. This chapter shall be known as the "Occupational Safety and Health Program for the Employees of the City of East Ridge." (1993 Code, § 1-1101, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

4-302. Director. The City of East Ridge hereby designates the personnel director hereinafter referred to as the "director," to establish a safety and health program in compliance with the requirements of the Tennessee Occupational Safety and Health Act of 1972 and he is hereby given the authority to implement a plan subject to the approval of the city council which shall encompass the standards which have been promulgated by the State of Tennessee. (1993 Code, § 1-1102, modified, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

4-303. The plan. This plan shall be at least as effective as the federal or state standards on the same issues and shall include the following:

(1) The director or his authorized representatives shall have the right to enter at any reasonable time any establishment, construction site, plant or other area, workplace or environment where work is performed in the City of East Ridge; and to inspect and investigate any such place of employment and all pertinent conditions, processes, machines, devices, equipment and materials therein, and to question privately any supervisor or employee.

(2) The director shall provide for education and training of personnel for the administration of the program, and he shall provide for the education

¹The Occupational Safety and Health Program Plan for the City of East Ridge is available in the city recorder's office.

and training of all employees of the city to the extent that same is necessary for said employees to recognize and report safety and health problems as defined in the applicable standards.

(3) All employees shall be informed of the policies and the standards set forth by the Tennessee Occupational Safety and Health Act.

(4) All employees of the city shall be informed of safety hazards, exposure to toxic or harmful materials and imminent danger situations that may occur in their jobs.

(5) The director or his authorized representative shall upon any allegation of imminent danger immediately ascertain whether there is a reasonable basis for the complaint. He shall make a preliminary determination of whether or not the complaint appears to have merit. If such is the case he or his authorized representative shall give to any employee the right to participate in any investigation or inspection which involves a safety and/or health situation which concerns his work area. (1993 Code, § 1-1103, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

4-304. Training program. The director shall establish a safety and health-training program designed to instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment. (1993 Code, § 1-1104, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

4-305. Report of work connected with death. The director shall contact the Commissioner of Labor of the State of Tennessee by telephone in the event of the death of an employee involved in a work-related accident. This notification will be done as soon after the fatality as possible but not to exceed forty-eight (48) hours. (1993 Code, § 1-1105, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

4-306. Request for variance. The director shall set up a procedure for requesting a variance from the Tennessee Department of Labor in the event an operation within the city does not meet the standards set by the Occupational Safety and Health Act and immediate action to alleviate the discrepancy is not possible. (1993 Code, § 1-1106, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

4-307. Report to state. (1) The director shall establish and maintain a system for collecting and reporting safety and health data required under the Tennessee Occupational Safety and Health Act.

(2) The director shall make an annual report to the Commissioner of Labor for the State of Tennessee showing the accomplishments and progress of the City of East Ridge in its Occupational Safety and Health Program. (1993 Code, § 1-1107, as replaced by Ord. #746, May 2003, and Ord. #761, Dec. 2003)

4-308. Scope of applicability. The director shall apply this program to employees of each administrative department, commission, board, division or other agency of the City of East Ridge. (1993 Code, § 1-1108, as replaced by Ord. #761, Dec. 2003)

4-309. Report by employees. The director shall provide a means whereby any employee may submit a report of what he feels is a safety and/or health hazard to his immediate supervisor and the director without fear of jeopardizing his job or chances for future promotion. Such reports shall be preserved and the action thereon shall be noted on said reports and signed by the director or his designees. (1993 Code, § 1-1109, as replaced by Ord. #761, Dec. 2003)

4-310. Definitions adopted by reference. In implementing the plan the director shall adopt therein all the words and phrases designated as "definitions" in the Tennessee Occupational Safety and Health Act, promulgated regulations and standards thereunder. The director shall submit said plan to the Tennessee Department of Labor for approval on or before October 15, 1973. (1993 Code, § 1-1110, as replaced by Ord. #761, Dec. 2003)

4-311. Effective date of plan. The plan, upon its approval by the Tennessee Department of Labor, shall become effective to the City of East Ridge and at this time shall become a part of this chapter as fully and completely as if set out herein. (1993 Code, § 1-1111, as replaced by Ord. #761, Dec. 2003)

CHAPTER 4**INFECTIOUS DISEASE CONTROL POLICY****SECTION**

- 4-401. Purpose.
- 4-402. Coverage.
- 4-403. Administration.
- 4-404. Definitions.
- 4-405. Policy statement.
- 4-406. General guidelines.
- 4-407. Hepatitis B vaccinations.
- 4-408. Reporting potential exposure.
- 4-409. Hepatitis B virus post-exposure management.
- 4-410. Human immunodeficiency virus post-exposure management.
- 4-411. Disability benefits.
- 4-412. Training regular employees.
- 4-413. Training high risk employees.
- 4-414. Training new employees.
- 4-415. Records and reports.
- 4-416. Legal rights of victims of communicable diseases.

4-401. Purpose. It is the responsibility of the City of East Ridge to provide employees a place of employment, which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of East Ridge, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses. The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immune-deficiency Virus (HIV), and Tuberculosis (TB). (as replaced by Ord. #761, Dec. 2003)

4-402. Coverage. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Paramedics and emergency medical technicians;
- (2) Occupational nurses;
- (3) Housekeeping and laundry workers;

- (4) Police and security personnel;
- (5) Firefighters;
- (6) Sanitation and landfill workers; and
- (7) Any other employee deemed to be at high risk per this policy and an exposure determination. (as replaced by Ord. #761, Dec. 2003)

4-403. Administration. This infection control policy shall be administered by the city manager or his/her designated representative who shall have the following duties and responsibilities:

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the city charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend to the city council any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be prescribed by the city council. (as replaced by Ord. #761, Dec. 2003)

4-404. Definitions. (1) "Body fluids." Fluids that have been recognized by the Centers for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

(2) "Exposure." The contact with blood or other potentially infectious materials to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individual's normal job duties.

(3) "Hepatitis B Virus (HBV)." A serious blood-borne virus with potential for life-threatening complications. Possible complications include massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.

(4) "Human Immune-deficiency Virus (HIV)." The virus that causes acquired immune-deficiency syndrome (AIDS). HIV is transmitted through

sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

(5) "Tuberculosis (TB)." An acute or chronic communicable disease that usually affects the respiratory system but may involve any system in the body.

(6) "Universal precautions." Refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with potentially infectious materials to be protected as though such body fluid were HBV or HIV infected. (as replaced by Ord. #761, Dec. 2003)

4-405. Policy statement. All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Centers for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovia, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (as replaced by Ord. #761, Dec. 2003)

4-406. General guidelines. General guidelines which shall be used by everyone include:

(1) Think when responding to emergency calls and exercise common sense when there is potential exposure to blood or other potentially infectious materials, which require universal precautions.

(2) Keep all open cuts and abrasions covered with adhesive bandages, which repel liquids.

(3) Soap and water kill many bacteria and viruses on contact. If hands are contaminated with blood or other potentially infectious materials to which universal precautions apply, then wash immediately and thoroughly. Hands shall also be washed after gloves are removed even if the gloves appear to be intact. When soap and water or hand washing facilities are not available, then use a waterless antiseptic hand cleaner according to the manufacturers recommendation for the product.

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they

are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

(5) The city will provide gloves of appropriate material, quality and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or other potentially infectious materials to which universal precautions apply:

(a) While handling an individual where exposure is possible;

(b) While cleaning or handling contaminated items or equipment;

(c) While cleaning up an area that has been contaminated with one of the above.

Gloves shall not be used if they are peeling, cracked, or discolored, or if they have puncture tears, or other evidence of deterioration. Employees shall not wash or disinfect surgical or examination gloves for reuse.

(6) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victim's blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel to provide or potentially provide emergency treatment.

(7) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other potentially infectious materials to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.

(8) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other potentially infectious materials.

(9) Areas and equipment contaminated with blood shall be cleaned as soon as possible. A household (chlorine) bleach solution (1 part chlorine to 10 parts water) shall be applied to the contaminated surface as a disinfectant leaving it on for a least thirty (30) seconds. A solution must be changed and re-mixed every twenty-four (24) hours to be effective.

(10) Contaminated clothing (or other articles) shall be handled carefully and washed as soon as possible. Laundry and dish washing cycles at one hundred twenty degrees (120°) are adequate for decontamination.

(11) Place all disposable equipment (gloves, masks, gowns, etc.) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous" dumpster. NOTE: Sharp objects must be placed in an impervious container and shall be properly disposed of.

(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed. All required tags shall meet the following criteria:

(a) Tags shall contain a signal word and a major message. The signal word shall be "BIOHAZARD," or the biological hazard symbol. The major message shall indicate the specific hazardous condition or the instruction to be communicated to employees.

(b) The signal word shall be readable at a minimum distance of five feet (5') or such greater distance as warranted by the hazard.

(c) All employees shall be informed of the meaning of the various tags used throughout the workplace and what special precautions are necessary.

(13) Linen soiled with blood or other potentially infectious materials shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage. The employee responsible for transported soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with potentially infectious materials.

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (as replaced by Ord. #761, Dec. 2003)

4-407. Hepatitis B vaccinations. The City of East Ridge shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the infectious disease control coordinator. (as replaced by Ord. #761, Dec. 2003)

4-408. Reporting potential exposure. City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc.):

(1) Notify the infectious disease control coordinator of the contact incident and details thereof.

(2) Complete the appropriate accident reports and any other specific form required.

(3) Arrangements will be made for the person to be seen by a physician as with any job-related injury. Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency (HIV antibody). Testing on the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (as replaced by Ord. #761, Dec. 2003)

4-409. Hepatitis B virus post-exposure management. For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure. For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (i.e., 10 SRU by RIA, negative by EIA). If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (as replaced by Ord. #761, Dec. 2003)

4-410. Human immunodeficiency virus post-exposure management. For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within twelve (12) weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested six (6) weeks, twelve (12) weeks, and six (6) months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first six to twelve (6-12) weeks after exposure) exposed workers should follow the U.S. Public Health Service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing twelve (12) weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure. (as replaced by Ord. #761, Dec. 2003)

4-411. Disability benefits. Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Workers Compensations Bureau in accordance with the provisions of Tennessee Code Annotated, § 50-6-303. (as replaced by Ord. #761, Dec. 2003)

4-412. Training regular employees. On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (as replaced by Ord. #761, Dec. 2003)

4-413. Training high risk employees. In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy. (as replaced by Ord. #761, Dec. 2003)

4-414. Training new employees. During the new employee's orientation to his/her job, all new employees will be trained on the effects of infectious disease prior to putting them to work. (as replaced by Ord. #761, Dec. 2003)

4-415. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for record keeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e.,

gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc.) shall be recorded).

(3) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.

(4) Employee interviews. Should the city be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (as replaced by Ord. #761, Dec. 2003)

4-416. Legal rights of victims of communicable diseases. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

(1) Officers assume that a certain degree of risk exists in law enforcement and emergency service work and accept those risks with their individual appointments. This holds true with any potential risks of contacting a communicable disease as surely as it does with the risks of confronting an armed criminal.

(2) Any officer who refuses to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall be subject to disciplinary measures along with civil and, or criminal prosecution.

(3) Whenever an officer mentions in a report that an individual has or may have a communicable disease, he shall write, "contains confidential medical information" across the top margin of the first page of the report.

(4) The officer's supervisor shall ensure that the above statement is on all reports requiring that statement at the time the report is reviewed and initiated by the supervisor.

(5) The supervisor disseminating newspaper releases shall make certain the confidential information is not given out to the news media.

(6) All requests (including subpoenas) for copies of reports marked "contains confidential medical information" shall be referred to the city attorney when the incident involves an indictable or juvenile offense.

(7) Prior approval shall be obtained from the city attorney before advising a victim of sexual assault that the suspect has, or is suspected of having a communicable disease.

(8) All circumstance, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected

victim, of a communicable disease shall be referred directly to the appropriate department head or city attorney.

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

(10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil/and/or criminal prosecution. (as replaced by Ord. #761, Dec. 2003)

CHAPTER 5

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

4-501. Purpose.

4-502. Definitions.

4-503. General policy.

4-504. Justifiable expenses.

4-501. Purpose. Stated herein are the city's policy and the necessary rules and regulations for payment of expenses incurred while city employees, members of the city council, and the city manager are traveling on city business. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. It is the purpose of these regulations to provide a reasonable and systematic means by which the cost of travel may be estimated for budget preparation and controlled for purpose of economy. (as replaced by Ord. #740, May 2003, and Ord. #761, Dec. 2003)

4-502. Definitions. (1) "Authorized trip." Travel on city business, which has been approved by the city council and/or the city manager.

(2) "Travel advance." Money given in advance of travel when the estimated expenses are anticipated to be more than fifty dollars (\$50.00).

(3) "Authorized signature." Those individuals with the authority to permit travel on city business. On official travel forms, authorized signature includes the city manager or his representative.

(4) "Travel request and approval form." A form prepared by the traveler and indicating the destination, date and amount needed for an authorized trip.

(5) "Travel expense reimbursement voucher." The form prepared by the traveler upon conclusion of an authorized trip for reimbursement of travel expenses.

(6) "Official mileage chart." The form prepared by the traveler for reimbursement of an authorized trip in a personal car.

(7) "Traveler." The individual representing the city on an authorized trip. (as replaced by Ord. #761, Dec. 2003)

4-503. General policy. (1) Travel on city business includes trips within and outside the city to conferences, conventions, workshops, seminars, educational training courses, forums and other city related business meetings. Justifiable expenses related to such travel are described in § 4-504 of this chapter.

(2) All authorized trips and travel advances and reimbursements shall be made only on the authorization of the city council and/or city manager.

Claims for reimbursement for authorized trips must be presented to the city manager's office on the standard travel expense reimbursement voucher, properly completed and signed by a person authorized to approve expenditure documents and the traveler.

(3) Travelers authorized to travel may secure an advance of funds to cover the cost of travel. All travel advances should be presented to the city manager's office not more than fifteen (15) days or less than seven (7) days before the start of travel in order to allow adequate time for preparation of finances.

(4) It is the responsibility of the traveler to prepare the travel expense reimbursement voucher for expenses incurred. It is also the traveler's responsibility to file the properly completed travel expense reimbursement voucher and receipts with the city manager's office no later than thirty (30) days from the date of returning from the authorized trip. If reimbursement is claimed later than thirty (30) days after return, it may be disallowed, unless previous authorization for late filing has been given by the city manager.

(5) Any expense considered excessive will be disallowed. (Ord. #532, Nov. 1992, modified, as replaced by Ord. #740, May 2003, and Ord. #761, Dec. 2003)

4-504. Justifiable expenses. (1) Transportation. (a) In general, the city will reimburse for travel the coach airfare, when available, or the current mileage rate, not to exceed the cost of coach airfare.

(b) Mode of transportation. (i) City vehicles.

(A) City vehicles should be used whenever practical for official business.

(B) Reimbursement for gasoline, parking, tolls, and justifiable repairs to the city vehicle will be provided if documented with receipts.

(C) When traveling in a city owned vehicle, the battery, oil and other accessories should be checked and fuel should be obtained at the city garage prior to departure.

(D) All travel must be made by the most direct route possible. Any traveler traveling by an indirect route must assume any extra expenses incurred thereby. Deviations from the most direct route must be authorized in advance, except in cases of emergency.

(ii) Commercial aircraft. (A) If air travel is feasible, the fare for commercial air transportation on any trip should not exceed the regular tourist fare.

(B) Travelers are encouraged to make reservations as early as possible in order to take advantage of any available discount fares and to be ticketed before any pending rate increases.

(C) If the cost of air travel is paid by the traveler, a copy of paid ticket must be submitted to the city manager's office for reimbursement.

(D) The travel agency should bill the city, when possible.

(E) If other means of transportation are not feasible or the use of a private automobile better serves the city's purposes, then use of a traveler's private automobile may be authorized.

(F) For the use of private automobile, the traveler will be reimbursed at the current internal revenue service approved mileage rate, plus parking and toll fees, if documented with receipts.

(G) An odometer reading from the beginning and the end of the trip must be shown on the official mileage chart, which must also be submitted with the travel expense reimbursement voucher.

(c) Related transportation costs. (i) Taxicab, public conveyance and limousine fare, including tips, will be allowed if travel by such means is necessary. All such expenses must be justified and explained in the travel expense reimbursement voucher.

(ii) Ferry fares, road and bridge tolls and parking charges are reimbursable items. Receipts should accompany these expenses and are required for any parking expenses.

(iii) Rental cars will be permitted only in the event that the amount of business transportation required at the destination and to/from the airport is less than the amount that would be spent on cabs and limousines. The most economical model should be selected and all receipts should accompany the travel expense reimbursement voucher.

(iv) Rental cars for the general purpose of sightseeing or personal entertainment at the business destination are not allowable costs.

(2) Lodging. (a) Expenditures for lodging must be reasonable and generally follow lodging rates published in the Federal Travel Regulations Guide. It is recognized that expenditures will vary by geographic location; the city shall pay the prevailing single room rate per traveler at the place of lodging.

(b) Hotel accommodations will be made in advance and will be paid by a city check made payable to the hotel or charged to the city credit card.

(c) Additional costs incurred due to the traveler being accompanied by a spouse or other individuals not involved in city

business are not reimbursable expenses. Such non-reimbursable expenses would include the additional expense of a double room, extra meal costs, etc.

(3) Meals--per diem method. (a) Meals will be reimbursed in accordance with the current Meals and Incidental (M&I) rates published in the Federal Travel Regulations Guide. On arrival and departure dates, meals will be reimbursed at three-fourths (3/4) of the published rate. To qualify for M&I per diem, the traveler must remain in an official travel status for four (4) hours or more. These amounts include tip and applicable taxes. This is a per diem allowance and does not need to be supported by receipts, provided the travel advance form is properly completed.

(b) This per diem method applies equally to the council members and the city manager unless utilizing actual cost method.

(4) Miscellaneous/other expenses. (a) Tips are considered as a proper item of traveling expense, provided the amounts are reasonable in proportion to the services rendered. They should be listed separately on the travel expense reimbursement voucher.

(b) For registration fees for conferences, conventions, seminars, banquets, etc. which require payment in advance, a vendor's invoice with a proper registration form stating the amount of the fee must be presented to the city manager's office at least two (2) weeks in advance of the conference. If possible, upon return from the conference, a receipt for the registration fee should accompany the travel expense reimbursement voucher. If the registration fees are paid at the conference, then a receipt is required for reimbursement.

(c) Long distance telephone charges will be reimbursed only if related to city business. The points and parties between which the calls were made must be stated on the voucher together with the reason therefore.

(d) Meals or lodging provided in registration fees are to be identified on the travel expense reimbursement voucher. If meals are provided in registration, an appropriate adjustment in the per diem reimbursement will be made.

(e) When a traveler believes that it is in the best interest of the City of East Ridge to have a guest join the traveler for a meal, that traveler may obtain reimbursement for such meal and associated expenses if the date, name of guest, and the business necessity or desirability for such guest's expenses are submitted with the travel expense claim. Such expenditures will be left to the discretion of the city manager.

(5) Non-reimbursable items. (a) Personal expenses, such as: telephone calls, haircuts, valet, laundry, beauty parlor, and room service are not reimbursable.

(b) Self-entertainment activities such as: paid TV, movies, nightclubs, health clubs, dinner theaters, bowling, etc. are not reimbursable.

(c) No traveler shall be allowed either mileage or transportation expenses when the traveler is transported by another traveler who is entitled to mileage or transportation expenses.

(d) No travel insurance premiums will be paid by the city.

(e) The cost of travelers checks or money orders is not a reimbursable item.

(f) Loss of funds or personal belongings while traveling is the responsibility of the traveler and will not be reimbursed. (as replaced by Ord. #740, May 2003, and Ord. #761, Dec. 2003, and amended by Ord. #907, Dec. 2011)