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**CITY OF FAIRVIEW
BOARD OF COMMISSIONERS**

JULY 7, 2016

7:00 P.M.

AGENDA

1. **Call to order by Mayor Carroll**
 - A. Prayer and Pledge
2. **Approval of the Agenda**
3. **Citizen Comments (Limited to the first 5 citizens to sign in and a limit of 3 minutes each).**
4. **Awards and/or Recognitions**
5. **Public Announcements**
6. **Staff Comments**
7. **Approval of the Minutes (only needed if removed from consent agenda)**
8. **Consent Agenda Consisting of Items as Follows**
 - A. Approval of the Minutes from the June 16, 2016 Board of Commissioners Meeting
 - B. Approval of the Minutes from the June 23, 2016 Board of Commissioners Public Hearing #1
 - C. Approval of the Minutes from the June 23, 2016 Board of Commissioners Public Hearing #2
 - D. Approval of the Minutes from the June 23, 2016 Board of Commissioners Special Meeting #1
 - E. Approval of the Minutes from the June 23, 2016 Board of Commissioners Special Meeting #2
 - F. Second and Final Reading of Bill #2016-18, Ordinance No. 932, An Ordinance to Establish an Updated Occupational Safety and Health Program Plan, Devise Rules and Regulations, and to Provide for a Safety Director and the Implementation of Such Program Plan. An Ordinance to Amend Bill #2013-09, Ordinance No. 804
9. **Old Business**
 - A. Discuss and/or Take Action on Expiring Board Seats - Carroll
 - (1) One Tree Commission Seat
 - (2) Recall Vote on Planning Commission Seat
 - (3) One Planning Commission Seat
 - B. Discuss and/or Take Action on Amending the Ordinance for the Park Commission to Add One Board Member and Suspend the Appointment Made at the Board of Commissioners Meeting Held June 2, 2016, Until the Ordinance can be Amended - Carroll
 - C. Discuss and/or Take Action on City Manager Hiring – Carroll
 - D. Discuss and/or Take Action on Status of Investigation – Carroll
 - E. Discuss and/or Take Action on Policies for Nepotism and Conflict of Interest – Sutton
10. **New Business**
 - A. Discuss and/or Take Action on Spending Facilities Tax Money on Fairview Schools – Carroll
 - B. Discuss and/or Take Action on All Appointments to All Boards/Commissions – Sutton
 - C. Discuss and/or Take Action on Judge's Eligibility to Receive Full-Time Employee Benefits – Crutcher
 - D. Discuss and/or Take Action on an Interlocal Agreement Between Williamson County and the City of Fairview for Cooperation in the Provision of a Healthcare Clinic - Hail

- E. Discuss and/or Take Action on Bill #2016-19, Ordinance No. 933, An Ordinance for an Amendment to the City of Fairview, Tennessee, Budget for Fiscal Year 2016-2017 Budget (Bowie Park Paving) – Daugherty
- F. Discuss and/or Take Action on Bill #2016-20, Ordinance No. 934, An Ordinance for an Amendment to the City of Fairview, Tennessee, Budget for Fiscal Year 2016-2017 Budget (Nature Center Heating/Air Conditioning Unit Replacement) - Daugherty

11. City Manager Items for Discussion

- A. Miscellaneous Updates
- B. City Attorney Comments

12. Communications from the Mayor and Commissioners

13. Adjournment

8F

Bill # 2016-18

ORDINANCE NO. 932

AN ORDINANCE TO ESTABLISH AN UPDATED OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN, DEVISE RULES AND REGULATIONS, AND TO PROVIDE FOR A SAFETY DIRECTOR AND THE IMPLEMENTATION OF SUCH PROGRAM PLAN. AN ORDINANCE TO AMEND BILL #2013-09, ORDINANCE NO. 804.

Be it Ordained by the City of Fairview, Tennessee as follows:

WHEREAS, in compliance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the City of Fairview hereby updates the Occupational Safety and Health Program Plan for our employees.

WHEREAS, due to various changes in subsequent years, it has become necessary to amend the program plan to comply with more recent state requirements.

Therefore, Be it Ordained by the Board of Commissioners of the City of Fairview, Tennessee that there be and is hereby amended as follows:

Chapter 4, Section 4-301. Title. Is hereby repealed in its entirety and the following substituted there for.

Chapter 4, Section 4-301. Title. This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Fairview.

Chapter 4, Section 4-302. Purpose. Is hereby repealed in its entirety and the following substituted there for.

Chapter 4, Section 4-302. Purpose. The City of Fairview, Tennessee, in electing to update the established program plan will maintain an effective and comprehensive Occupational Safety and Health Program Plan for its employees and shall;

- (1) Provide a safe and healthful place and condition of employment that includes:
 - a. Top Management Commitment and Employee Involvement;
 - b. Continually analyze the worksite to identify all hazards and potential hazards;
 - c. Develop and maintain methods for preventing or controlling existing or potential hazards; and
 - d. Train managers, supervisors, and employees to understand and deal with worksite hazards.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and

- d. Train managers, supervisors, and employees to understand and deal with worksite hazards.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development, to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.
- (5) Consult with the State Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the State.
- (6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.
- (7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this Program Plan.

Chapter 4, Section 4-303. Coverage. Is hereby repealed in its entirety and the following substituted there for.

Chapter 4, Section 4-303. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Fairview, Tennessee shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Fairview, Tennessee whether part-time, or full-time, seasonal or permanent.

Chapter 4, Section 4-304. Standards Authorized. Is hereby repealed in its entirety and the following substituted there for.

Chapter 4, Section 4-304. Standards Authorized. The Occupational Safety and Health Standards adopted by the City of Fairview, Tennessee are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (T.C.A. Title 50, Chapter 3).

Chapter 4, Section 4-305. Variances From Standards Authorized. Is hereby repealed in its entirety and the following substituted there for.

Chapter 4, Section 4-305. Variances From Standards Authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by T.C.A. Title 50. Prior to requesting such temporary variance, the City of Fairview, Tennessee, shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees.

Chapter 4, Section 4-306. Administration. Is hereby repealed in its entirety and the following substituted there for.

Chapter 4, Section 4-306. Administration. For the purposes of this Ordinance, Roy Russell is designated as the Safety Director of Occupational Safety and Health to perform duties and to exercise powers assigned to plan, develop, and administer the Program Plan. The Safety Director shall develop a plan of operation for the Program Plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by T.C.A., Title 50.

Chapter 4, Section 4-307. Funding. Is hereby repealed in its entirety and the following substituted there for.

Chapter 4, Section 4-307. Funding. Sufficient funds for administering and staffing the Program Plan pursuant to this Ordinance shall be made available as authorized by the City of Fairview, Tennessee, Board of Commissioners.

BE IT FURTHER ORDAINED, If any section, sub-section, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

BE IT FINALLY ORDAINED, that this Ordinance shall take effect having been passed, properly signed, certified, and has met all other legal requirements, and as otherwise provided by law, fifteen days (15) days after its first passage or upon second reading, whichever is later, the general welfare of the City of Fairview requiring it.

MAYOR

CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

Passed First Reading

June 16, 2016

Passed Second Reading

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

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I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of the City of Fairview, Tennessee.

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

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

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

II. DEFINITIONS

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

- a. COMMISSIONER OF LABOR and Workforce Development means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. EMPLOYER means the City of Fairview and includes each administrative department, board, commission, division, or other agency of the City of Fairview, Tennessee.

- c. **SAFETY DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH** or **SAFETY DIRECTOR** means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of the City of Fairview, Tennessee.
- d. **INSPECTOR(S)** means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.
- e. **APPOINTING AUTHORITY** means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.
- f. **EMPLOYEE** means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. **PERSON** means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. **STANDARD** means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- i. **IMMINENT DANGER** means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. **ESTABLISHMENT** or **WORKSITE** means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. **SERIOUS INJURY** or **HARM** means that type of harm that would cause permanent or prolonged impairment of the body in that:
 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
 2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

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

- I. **ACT** or **TOSH Act** shall mean the Tennessee Occupational Safety and Health Act of 1972.

- m. **GOVERNING BODY** means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. **CHIEF EXECUTIVE OFFICER** means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYERS RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from and unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this Program Plan are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this Program Plan.

IV. EMPLOYEES RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.

- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

- a. The Safety Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.

1. The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
 2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
 3. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.
 4. The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
 5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 6. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 9. **The Safety Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees, insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours. All work-related inpatient hospitalizations, amputations, and loss of an eye must be reported to TOSHA within 24 hours.**
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.
1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan.
 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.
 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or

illnesses to the Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. STANDARDS AUTHORIZED

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

VII. VARIANCE PROCEDURE

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

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

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

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

VIII. RECORDKEEPING AND REPORTING

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

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

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

IX. EMPLOYEE COMPLAINT PROCEDURE

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

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING

- a. Safety Director and/or Compliance Inspector(s):
 1. Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to

attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.

2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, writing technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

b. All Employees (including supervisory personnel):

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

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocutation; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.
 - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal

protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES

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

- a. In order to carry out the purposes of this Ordinance, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.

1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
 2. Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.
- i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
1. The Safety Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 5. The imminent danger shall be deemed abated if:

- i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
 6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and Chief Executive Officer immediately.
 2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS

- a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:
 1. Issue an abatement order to the head of the worksite.
 2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
 1. The standard, rule, or regulation which was found to violated.
 2. A description of the nature and location of the violation.
 3. A description of what is required to abate or correct the violation.
 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES

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

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

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

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

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

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

- a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the

employer, the employee, or any other person from compliance with the provisions of this Program Plan.

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

Signature: Safety Director, Occupational Safety and Health and Date

APPENDIX -I WORK LOCATIONS

Fairview City Hall and Codes Department - 9 employees
7100 City Center Way
Fairview, TN 37062
615-799-2484

Fairview Fire Department - 15 employees
7131 Bowie Lake Road (plus 14 volunteers)
Fairview, TN 37062
615-799-3473

Fairview Parks Department - 4 employees
7211 Bowie Lake Road
Fairview, TN 37062
615-799-5544

Fairview Police Department - 21 employees
7100 City Center Way (plus 5 volunteers)
Fairview, TN 37062
6165-799-2435

Fairview Street Department - 7 employees
7111 Bowie Lake Road
Fairview, TN 37062
615-799-1585

TOTAL NUMBER OF EMPLOYEES : 75 (56 full time & 19 volunteers)

APPENDIX – II NOTICE TO ALL EMPLOYEES

NOTICE TO ALL EMPLOYEES OF CITY OF FAIRVIEW, TENNESSEE

The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

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

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

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

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Director or Human Resources Director.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

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

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this Program Plan.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the Human Resources Director for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of the City of Fairview, Tennessee is available for inspection by any employee at City Hall during regular office hours.

Signature: MAYOR AND DATE

APPENDIX - III PROGRAM PLAN BUDGET

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that the City of Fairview, Tennessee, has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

APPENDIX – IV ACCIDENT REPORTING PROCEDURES

Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Director and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

City of Fairview Current Policy

9E

Section L. Nepotism

Except as authorized by the City Manager due to a lack of acceptable and practical options, no applicants for employment shall be hired and no employees shall work or be placed in positions within the same department or under the direct or indirect supervision or accountability of a member of their immediate or extended family as related through blood, adoption or marriage. (Exempted are Public Safety Volunteers).

If after adoption of these Rules and Regulations two employees in the same department or under the same direct supervision or accountability should marry or otherwise become in violation of this section by marriage or adoption, then those employees shall be asked to determine which of them will transfer within ninety (90) days to any vacant position for which the employee is qualified and which would resolve the violation of the City's nepotism policy. An employee who is allowed to transfer under these circumstances must meet the minimum qualifications of a vacant, budgeted position and must have had an overall satisfactory rating on the last performance evaluation. If such a transfer cannot be arranged within ninety (90) days for either of the employees, then the employees shall be asked to determine which of them will leave City employment. In the event the employees cannot decide between them who will leave, and if a transfer cannot be arranged, then the employee with the higher level of job-related performance for the City shall be retained and the other shall be dismissed.

MTAS SAMPLE POLICY

Ordinance No. _____

An Ordinance to Amend Title 4 of the Code of Ordinances Regarding Nepotism

WHEREAS, Section 4-208 of the Code of Ordinances establishes a nepotism policy; and

WHEREAS, it is deemed in the best interest of the organization that said policy be amended to provide clarity to work place situations that could occur related to the nepotism policy.

NOW THEREFORE BE IT ORDAINED by the City of Fairview, Tennessee that Section 4-208 of the Code of Ordinances is hereby amended to read in its entirety as follows:

4-208. Nepotism Policy.

- (a) No two persons who are relatives shall be placed within the same line of supervision due to a new appointment, promotion, demotion, departmental transfer, or other employment action.
- (b) For purposes of this policy, the following definitions shall apply:
 - “Relative” shall mean a spouse, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father, father-in-law, brother, brother-in-law, step-brother, sister, sister-in-law, step-sister, aunt, uncle, niece, nephew, step-parent, or stepchild.
 - “Line of supervision” shall mean any supervisory relationship within the organization, irrespective of the presence of intervening levels of supervision between the two persons.
- (c) When a violation results from the marriage of two employees, the violation shall be resolved by means of dismissal, resignation, or if made available and offered, transfer to a suitable position within the city. The city manager shall advise the employees of the alternatives available to remove such violation. Such employees shall be given the opportunity to select among such available alternatives. If no such selection is made, such violation shall be cured by the city manager.
- (d) An application for employment submitted by a relative of a current employee will not be considered when the position applied for falls within the same line of supervision of the related employee, unless:
 - (1) the current employee has tendered a resignation from city employment,
 - (2) said resignation has been accepted by the city, and
 - (3) there will be no overlap of employment of the current employee and the relative.

This ordinance shall take effect from and after its final passage, the general welfare of the city requiring it.

WHEREUPON, the Mayor declared the Ordinance adopted, affixed a signature and the date thereto, and directed that the same be recorded.

Mayor

Date: _____

City Recorder

Approved as to Form and Legality
this _____ day of _____ 2015

City Attorney

Passed on 1st Reading: _____

Passed on 2nd Reading: _____

CITY MANAGER HALL'S PROPOSED POLICY
FROM JUNE 2016

NEPOTISM POLICY

I. Introduction

The City of Fairview, Tennessee's nepotism policy is designed to prevent occurrences whereby relatives who are employees of the City of Fairview are in a direct supervisory line with respect to each other. In order to guard against these practices, the City prohibits its employees who are relatives from being placed within the same line of supervision where one relative is responsible for supervising the job performance or work activity of another relative.

The following shall be the nepotism policy for the City of Fairview, Tennessee:

- A. Effective June 2, 2016, no employees of the City who are relatives shall be placed within the same direct line of supervision whereby one relative is responsible for supervising the job performance or work activities of another relative; provided, however, that to the extent possible, this policy shall not be construed to prohibit two or more such relatives from working for the institution. For the purposes of this policy, a "relative" means a parent, parent-in-law, child, spouse, brother, foster brother, sister, foster sister, grandparent, grandchild, son-in-law, brother-in-law, daughter-in-law, sister-in-law, or other family member who resides in the same household.
- B. When employees of the institution become in violation of subsection (A) as a result of marriage, the violation shall be resolved by means of transfer within the employment structure of the City if possible, or resignation as may be necessary to remove the violation. If transfer alternatives are available, the employees shall be given the opportunity to select among the available alternatives; provided that if the employees are unable to agree upon any such alternative within sixty (60) days, the City Manager shall take appropriate action to remove the violation.
- C. In the case of employment relationships which would otherwise violate subsection (A) but which were in effect prior to June 2, 2016, the employment of the employees shall not be affected by this policy, provided that the City takes appropriate action to ensure that employees neither initiate nor participate in City decisions involving a direct benefit (retention, promotion, salary, leave, etc.) to a relative.
- D. The City shall apply the foregoing in a non-discriminating manner and shall ensure that the implementation of this policy does not adversely affect employees of one sex over those of the opposite sex. The provisions of this policy are not to be construed to limit the hiring, promotion, or employment opportunities of any particular group of applicants.

II. Application

The City of Fairview's policy on nepotism shall be applied as follows:

- A. The nepotism policy applies to any person who is employed as a full, part-time, student, or temporary employee by the City.
- B. The nepotism policy does not apply to individuals hired prior to June 2, 2016, and shall not be retroactively applied; however, change in the status of employees hired prior to June 2, 2016, shall be governed by this policy.
- C. The employment of relatives is permitted; however, no employee shall participate in the process of review, recommendation, and/or decision making in any matter concerning hiring, opportunity, promotion, salary, retention, or termination of a relative as herein defined.
- D. Pursuant to this provision, a relative may serve an administrative function within the City, so long as the duties do not require or include participation in the process of review, recommendation, and/or decision making in any matter concerning hiring, opportunity, activities, promotion, salary, retention, or termination of a relative.

III. Hiring

In searching for qualified candidates for a new or vacated position, persons responsible for recruitment shall evaluate each individual on his/her merits without consideration of their relationship to another employee. Prior to hiring any individual, the City Manager and the Department head/Supervisor wishing to hire the individual must conduct an analysis to assure compliance with this policy and Tennessee State and Federal Law.

IV. Remedies

The City may remedy any violation of this policy by voluntary transfer or, if an agreement cannot be reached, by involuntary transfer from a position, or by termination, when appropriate.

V. Hiring of Board of Commissioner Relatives

A relative of a member of the Board of Commissioners shall not be hired by the City after June 2, 2016, for any job to be filled by the City. For the purposes of this policy, a "relative" means a parent, parent-in-law, child, spouse, brother, foster brother, sister, foster sister, grandparent, grandchild, son-in-law, brother-in-law, daughter-in-law, sister-in-law, or other family member who resides in the same household.

- VI. Any employee who receives an adverse ruling to them pursuant to this policy shall have a right to appeal the adverse decision in accordance with the Grievance Procedure in effect in the City at the time the Grievance occurs.
- VII. The provisions of this policy shall not apply to any person who is serving in a voluntary position with the City.

COMMISSIONER CRUTCHER'S PROPOSED POLICY
FROM NOVEMBER 2015

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FAIRVIEW, TENNESSEE, PROVIDING THAT THE FAIRVIEW MUNICIPAL CODE BE AMENDED BY REVISING SECTION 4-208 OF CHAPTER 2, TITLE 4, IN REGARD TO NEPOTISM.

WHEREAS, the Board of Commissioners has determined that the Fairview Municipal Code should be revised and that the best interest and welfare of the all the citizens of the City of Fairview, Tennessee, will be served by amending the Fairview Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FAIRVIEW, TENNESSEE, AS FOLLOWS:

SECTION 1. That Section 4-208 of Chapter 2, Title 4 of the Fairview Municipal Code is hereby amended to read as follows:

4-208. Anti-Nepotism Policy.

(1) Title. This section shall be cited as the "Anti-Nepotism Policy of the City of Fairview."

(2) Purpose. This policy is not for the purpose of depriving any citizen of an equal chance for employment with the City of Fairview but is solely to prevent the potential for preferential treatment of relatives, as defined in subsection (4)(c).

(3) Applicability.

(a) The prohibitions set forth in this section shall apply solely to employee positions for the City of Fairview.

(b) This section shall not apply to appointments to the various boards, commissions and committees of the City of Fairview.

(c) This section and the prohibition against certain hiring contained herein shall be applied prospectively only from the effective date of its enactment and shall not in any way be construed to prohibit or make unlawful any current employment relationship or situation. However, no person shall be hired, transferred or promoted after the effective date of this policy whose continued employment with the City of Fairview would create a new violation of this policy.

(d) The prohibitions set forth in this section shall not apply in the case of seasonal part-time employment.

(4) Definitions. As used in this section, unless a different meaning appears from the context:

(a) "Elected Official" means any person holding a position on the Board of Commissioners.

(b) "Nepotism" means the practice of favoring, providing benefits to, or giving any workplace preference to a relative over other employees.

(c) "Relative(s)" includes parent, child, sibling, grandparent, grandchild, aunt, uncle, niece, nephew, spouse, daughter-in-law, son-in-law, mother-in-law, father-in-law, stepparent, stepchild, brother-in-law, sister-in-law, domestic partner, cohabitant or a person with whom a significant committed relationship exists and includes adoptive relationships.

(d) "Supervisor" means any employee of the City of Fairview having supervisory duties and powers over another employee or employees within the respective department of the City of Fairview.

(5) Nepotism Prohibited. The following restrictions shall apply in the hiring and promotion of employees to positions for the City of Fairview:

(a) A relative shall not be hired, promoted or transferred to a regular full-time or regular part-time position where:

(i) One relative would have the authority to appoint, remove, discipline or evaluate the performance of the other;

(ii) One relative would be responsible for auditing the work of the other; or

(iii) Other circumstances exist that place the relatives in a situation of actual or reasonably foreseeable conflict of interest.

(b) No relative shall be considered for employment by the City of Fairview or hired to a position of employment with the City of Fairview where that person will be the supervisor or be supervised by another relative who is an existing employee within the same department.

(c) Applications for employment submitted by relatives of city employees holding current supervisory positions will not be accepted for positions in the same department of the City of Fairview in which the supervisor works.

(d) No person who is a relative of any elected official, as defined in subsection (4)(a), shall be considered for employment as an employee of the City of Fairview. This shall not restrict nor prohibit the continued employment of individuals in the position held on the effective date of this policy. Further, this shall not restrict nor prohibit the continued employment of individuals in the position held at the time a relative of an employee is elected to a position on the Board of Commissioners after the date of the employee's start of employment with the City of Fairview.

(6) Employees Who Become Relatives. If after the effective date of this policy two employees become relatives in violation of this section, then those employees shall be asked to determine which of them will transfer within ninety (90) days to any vacant position in another department, division or shift for which the employee is qualified and which would resolve the violation. An employee who is allowed to transfer under these circumstances must meet the minimum qualifications of a vacant, budgeted position and must have had an overall satisfactory rating on the last performance evaluation. If such a transfer cannot be arranged within ninety (90) days for either of the employees, then the employees shall be asked to determine which of them will terminate employment. In the event the employees cannot decide between them who will leave, and if a transfer cannot be arranged, then the employee with the higher level of job-related performance for the City of Fairview shall be retained and the other shall be terminated.

(7) Waiver. In the event there is a scarcity of qualified applicants to fill specific positions, then a waiver of this policy may be requested from the Board of Commissioners by the City Manager on a case-by-case basis.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 3. If any section, subsection, clause, provision or portion of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, subsection, clause, provision or portion of this ordinance.

SECTION 4. This ordinance shall take effect from and after its final passage and publication thereof, or fifteen days after its first passage, whichever occurs later, the general welfare of the City of Fairview, Williamson County, Tennessee, requiring it.

ATTEST:

CITY OF FAIRVIEW, TENNESSEE

BY: _____
Brandy Johnson, City Recorder

BY: _____
Patti L. Carroll, Mayor

APPROVED AS TO FORM:

BY: _____
Larry D. Cantrell, City Attorney

Passed First Reading _____

Passed Second Reading _____

Public Hearing Held _____

MTAS Model Code of Ethics

Reference Number: MTAS-513
Tennessee Code Annotated
Reviewed Date: December 17, 2012

Reference Number: MTAS-513

Code of Ethics[1]

SECTION 1. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board (except school board), commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities.

SECTION 2. Definition of "personal interest."

(1) For purposes of Sections 3 and 4, "personal interest" means:

- (a) Any financial, ownership, or employment interest in the particular entity or person that is the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
- (b) Any financial, ownership, or employment interest in the entity or person to be regulated or supervised; or
- (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

(2) The words "employment interest" include a situation in which an official, an employee or a designated family member is negotiating possible employment with a person or entity that is the subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter.

SECTION 3. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure.

SECTION 4. Disclosure of personal interest in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the particular person or entity being regulated or supervised that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose the interest on a form provided by and filed with the recorder before the exercise of the discretion when possible. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter.

SECTION 5. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

- (1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or
- (2) That might reasonably be interpreted as an attempt to influence his discretion, or reward him for past exercise of discretion, in executing municipal business.

SECTION 6. Use of information.

- (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.
- (2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity.

SECTION 7. Use of municipal time, facilities, etc.

- (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.
- (2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality.

SECTION 8. Use of position or authority.

- (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.
- (2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality.

SECTION 9. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy.

SECTION 10. Ethics complaints.

- (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.
- (2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.
(b) The city attorney may request that the governing body hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics.

SECTION 11. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and, in addition, is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.

¹⁾ State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the *Tennessee Code Annotated* sections indicated:

Campaign finance — T.C.A. Title 2, Chapter 10.

Conflict of interests — T.C.A. §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements — T.C.A. §§ 8-50-501 *et seq.*

Consulting fee prohibition for elected municipal officials — T.C.A. §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office) — T.C.A. § 39-16-101 *et seq.*

Crimes of official misconduct, official oppression, misuse of official information — T.C.A. §§ 39-16-401 *et seq.* Ouster law — T.C.A. §§ 8-47-101 *et seq.*

Source URL (retrieved on 06/30/2016 - 11:22): <https://mtasresource.mtas.tennessee.edu/reference/mtas-model-code-ethics>

Municipal Technical
Advisory Service



Municipal Technical
Advisory Service

10C

LEGAL OPINION

PREPARED BY: Larry D. Cantrell, City Attorney

Filed: October 16, 2014

REQUESTED BY: Mr. Wayne Hall, City Manager of Fairview, Tennessee

Mr. Wayne Hall, City Manager of the City of Fairview, Tennessee has requested a legal opinion relative to the authority of the Board of Commissioners to provide City Group Health Insurance to the Elected City Judge of the City of Fairview, Tennessee. In my opinion, the answer is yes, although the authority to provide such insurance would be pursuant to **Tennessee Code Annotated, Section 8-27-601 et seq.** rather than under the provisions of the City Charter.

Constitutional Limitation on Providing Insurance.

There is no Constitutional Limitation on Providing Insurance. In the case of **Blackwell v Quarterly County Court of Shelby County, 622 S.W.2d 538 TN (1981)**, upholding the right of a county to modify a pension plan, the Tennessee Supreme Court declared that within constitutional limitations governments at both state and local levels have broad authority relative to salary and compensation adjustments of their elected and appointed officers. There are no constitutional limitations on the amount of either officers' or employees' salary or other forms of compensation with respect to general law chartered cities. **Article VI, Section 7 of the Tennessee Constitution** while it does not limit the amount of compensation to judges of the Supreme or Inferior Courts (City Courts under the State Constitution are inferior Courts) and this article states that the compensation, "shall not be increased or diminished during the time for which they are elected." This section of the State Constitution and the prohibition of increasing the compensation during the term for which the Judge is elected applies only to the Judge's Salary and not to fringe benefits. (**See Coleman v St. Clair, 1991 WL 4254 TN Ct. App.**) "A fringe benefit is describes as a benefit, such as free life or health insurance, received by an employee in addition to his regular pay. Payment for Health, Life Insurance and contribution to retirement plans are benefits rather than salary. Thus in the case of an elected City Judge payments for such benefits does not violate **Article VI, Section 7**, if paid for by the City directly to the provider. A cash payment to the City Judge in lieu of purchasing the Insurance or retirement benefit etc. and paying of the premium by the City directly to the provider would violate the constitutional prohibition contained in the **State Constitution Article VI, Section 7**, in that the direct payment of the premium to the Judge would be an increase in Salary during the period for which the Judge was elected.

Statutory (Charter) Limitation on Providing Insurance.

While there is no constitutional limitation on providing the City Judge health insurance the same as other employees and officers of the city, there is a statutory limitation. The City is chartered under the General Law City Manager-Commission

charter found at **Tennessee Code Annotated, Section 6-18-101 et seq. Section 6-19-105** specifically provides that the board of commissioners can make available to the city's full-time non-elective officers and employees, "any group, life, hospital, health or accident insurance, either independent of, or as a supplement, to any retirement or other employee welfare benefits otherwise provided by law." That portion of the City's charter obviously does not apply to the City Judge who, if he is an officer or employee at all, is neither a full time officer nor a full time employee. Thus if the elected City Judge is to receive health insurance as a benefit the authorization for the City to provide such insurance must come from some authorizing source other than the City Charter.

Possible Statutory Alternative for Providing City Judge Health Insurance.

If the City desires to provide the City Judge Health Insurance, it must find the necessary from some source other than the City Charter. **Tennessee Code Annotated, Section 8-27-601** states as follows:

§ 8-27-601. Provision authorization

(a) All municipal corporations and special school districts are hereby expressly authorized to provide group life, hospitalization, disability, or medical insurance for all employees and officials of such municipal corporations and special school districts and for the dependents of these employees and officials. All persons employed as teachers, principals, superintendents and otherwise in the municipal or special school district school system shall be eligible for all insurance programs and benefits conferred by the provisions of this part.

(b) For the purpose of the application of this part, "Municipal Corporation or special school district employee" may include, subject to the approval of the legislative body of the municipal corporation or special school district, retired Municipal Corporation or special school district employees, officials, and their surviving spouses. Where any municipal corporation or special school district has offered such coverage prior to May 10, 1994, no further action by the legislative body shall be required.

In summary relative to this question, Tennessee Code Section 8-27-601 permits municipalities to provide group life, hospitalization, disability, or medical insurance for all employees and officers and their dependents. It must be provided in strict accordance with the above statute and Tennessee Code Section 8-27-602. At the time of the preparation of this opinion, the requirements of Tennessee Code Section 8-27-602 have already been complied with by the Board of Commissioners of the City of Fairview, Tennessee.

IS THE ELECTED CITY JUDGE A PUBLIC OFFICER OF THE CITY?

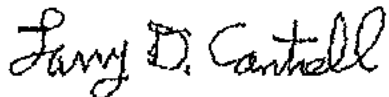
The City Judge is not clearly denominated an officer under the General Law Manager-Commission Charter. A number of tests for determining if a particular City

performing in various positions for the City were delineated in **Sitton v Fulton**, 566 S.W.2d 887 (TN Ct. App 1978), **Gamblin v Town of Bruceton**, 803 S.W.2d 690 (TN Ct. App 1990). In **Sitton v Fulton** and **Gamblin v Town of Bruceton**, the Court of Appeals approved the definition of a Public Officer as follows: A "Public officer" has been defined as an incumbent of a public office; an individual who has been appointed or elected in a manner prescribed by law, who has a designation or title given him by law, and who exercises the functions concerning the public assigned to him by law. **67 C.J.S. Officers' 2.**

Also, as pointed out at **63 Am.Jur.2d**, Public Officers and Employees s "(a) public office embraces the idea of tenure, duration, and continuity, and the duties connected therewith are generally continuing and permanent."

Thus, from the definition of Public Officer as opined by the Tennessee Court of Appeals in both the **Sitton and Gamblin cases** clearly the duly elected City Judge of Fairview, Tennessee is eligible (under the provisions of **Tennessee Code Annotated 8-27-601 and 8-27-602**) at the absolute discretion of the Board of Commissioners of the City of Fairview, Tennessee to receive the same health insurance benefits at the same rates and the same amount of coverage as the other Employees and Officers of the City of Fairview, Tennessee for himself and his family.

Respectfully submitted



Larry D. Cantrell
City Attorney
City of Fairview, TN



INTERLOCAL AGREEMENT BETWEEN WILLIAMSON COUNTY AND THE CITY OF FAIRVIEW FOR COOPERATION IN THE PROVISION OF A HEALTHCARE CLINIC

THIS INTERLOCAL AGREEMENT, ("Agreement"), is entered into by and between WILLIAMSON COUNTY, TENNESSEE, ("County"), a political subdivision of the State of Tennessee, located at 1320 West Main Street, Franklin, Tennessee, 37064, and the CITY OF FAIRVIEW, ("City") a municipal government, located at 7100 City Center Circle, Fairview, Tennessee, 37062, to establish the terms and financial responsibilities of the parties for the provision of a Healthcare Clinic.

RECITALS

WHEREAS, Williamson County and the City of Fairview are governmental entities of the State of Tennessee and, as such, are authorized to enter into interlocal agreements pursuant to *Tennessee Code Annotated, Section 12-9-104*;

WHEREAS, the County owns improved property located at 2629 Fairview Boulevard, Fairview, Tennessee 37062, currently being used as a healthcare clinic facility ("Clinic");

WHEREAS, the City and County are currently parties to an interlocal agreement concerning the operation of the Clinic which expires on June 30, 2016;

WHEREAS, the original interlocal agreement provided the City would pay for the maintenance and repair of the facility as well as the upkeep of the surrounding area, the County would provide the facility, and the State of Tennessee would provide the staff;

WHEREAS, the City and County have negotiated a new interlocal agreement to continue cooperating in the provision of the Clinic; and

NOW THEREFORE, in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

I. Purpose of Agreement. The purpose of this Interlocal Agreement is to clearly define obligations, responsibilities, and financial obligations of the City and County for the maintenance, repair, upkeep, and financial and contractual responsibilities of the parties for the provision of a Clinic.

II. Authority. This Agreement is made and entered into pursuant to the authority granted to the parties under the *Interlocal Cooperation Act*, Tennessee Code Annotated Sections 12-9-101, et seq., and the parties agree that all approvals and filings required by the terms of the Act shall be achieved as soon as possible from and after the execution of this Agreement.

III. Property and Facility. The structure currently being used as the Clinic is located at 2629 Fairview Boulevard, Fairview, Tennessee shall be referred herein as the "facility" and the lot shall be referred herein as the "property" for the purpose of this Agreement.

IV. Term. The initial term of this Agreement shall be for a period of three (3) years which will begin on July 1, 2016, (beginning date), and end on June 30, 2019. This Agreement may be extended by written agreement and signed by all parties for two (2) additional terms of one (1) year each.

V. Annual Payment by City. The City agrees to pay to the County the sum of \$45,000.00 for the three year period, to be paid to the County in three (3) equal annual payments of \$15,000.00 prior to July 31st of each year. The first payment of \$15,000.00 shall be made by the City to the County on or before July 31, 2016. Should this Agreement be extended for additional terms as provided in Section IV, the City shall pay an annual payment of \$15,000.00 for each year the Agreement is extended and to be paid in the same manner as the previous payments.

VI. City Obligations. In addition to the annual payments to the County, the City agrees to the following obligations:

a. Utilities. City agrees to be responsible for the cost and provision of all utilities, including water, sanitation, sewer, electricity, phone, light, heat, gas, power, fuel, and other services incident to City's use of the facility.

b. Janitorial Services. City agrees to be responsible for the cost and provision of janitorial services associated with the operation of the Clinic. Janitorial services including emptying trash containers and removal of all other trash from the Clinic and ensuring paper products are available in the restrooms shall be conducted on a daily basis or, at a minimum, four (4) workdays per week. All other janitorial services including, but not limited to, cleaning and sanitizing the bathrooms, sweeping, cleaning or vacuuming the floors, and dusting all furniture and cleaning common areas of the Clinic shall be conducted four (4) days per week or as needed. City shall also be responsible for providing and changing all light bulbs as needed. The City shall ensure that all spaces used to provide medical services are maintained in a clean sanitized condition.

c. Outside Maintenance. City, at its sole expense, shall perform limited maintenance of outside areas, City's obligations shall include only the following:

1. Maintain the lawn in a clean manicured condition including, without limitation, mowing and trimming the lawn;

2. Maintain the outside area in a clean and sanitary condition, promptly removing all rubbish, trash, and litter; and

d. Plumbing. City shall keep all lavatories, sinks, toilets, and all other water and plumbing apparatus in good order and repair and shall use same only for the purposes for which they were constructed.

e. Appliances. City shall be responsible for its appliances that are owned by City and that are not fixtures.

f. Limitation on Duty to Repair. The City's obligation to conduct repairs and maintenance to the facility expressly does not include any repairs or replacements required by reason of the negligent acts or omissions of the County, its agents, employees or those acting for or under the County.

VII. County's Obligations. The County agrees to be solely responsible for the following obligations:

a. Land and Building. County agrees to continue to provide the facility and land located at 2629 Fairview Boulevard, Fairview, Tennessee to be used as the Clinic.

b. Structural Repair. County, at its own cost and expense, shall maintain and make all necessary structural repairs and replacements to the facility, including its roof and exterior walls, doorways, window glass and frames, floor slabs, exterior pipes, and foundation.

c. Mechanical Repair. The County shall be responsible for the maintenance and repair needed to the plumbing, heating, electrical, air conditioning, and ventilating equipment and fixtures to the end that all such items are kept in good operating condition by the City except in case of damage arising from a willful or negligent act of the City's agent, invitee, or employee, in which case the City will be responsible for the cost of the repairs.

d. Limitation on Duty to Repair. The County's obligation to conduct repairs and maintenance to the facility expressly does not include any repairs or replacements required by reason of the negligent acts or omissions of the City, its agents, employees, or those acting for or under the City.

VIII. Fire or Other Casualty. If the facility should be damaged or destroyed by fire or other casualty so as to cause a material alteration in the character of the facility which prevents its substantial use in the manner theretofore used, either party may terminate this Agreement upon giving written notice to the other party.

IX. Insurance.

a. The County shall ensure the County maintains the ability under its self insured program to meet its obligations contained in this subsection. In the event all or any portion of the facility is damaged or destroyed by fire, windstorm, or any other insurable casualty, County, in its discretion, may repair, restore, or rebuild the facility to the condition as reasonably possible as existed immediately prior to such damage or destruction. However, if the damage or destruction is found to be a result of the action of the City, then the City shall reimburse the County for all cost to repair, restore, and rebuild the facility to the same condition as reasonably possible as existed immediately prior to such damage or destruction.

b. The City shall continue to maintain general public liability insurance against claims and liability for personal injury death, or property damage arising from the use, occupancy, disuse, or condition of the property, facility, and adjoining areas or ways. This insurance will provide coverage of at least \$130,000.00 for each occurrence and \$350,000.00 aggregate for bodily injury, \$50,000.00 each occurrence for property damage, \$1,000,000.00 for all claims other than claims falling within the GTLA and \$1,000.00 per person and \$10,000 per occurrence for coverage prior to litigation for medical payments.

X. Alterations. If City wishes to make any alterations or improvements to the property or facility the City shall pay for all such alterations or improvements. Prior to making any alterations or improvements, the City shall provide plans to the County and obtain written approval of the County prior to initiating the alteration or improvement.

XI. Limitation on Use. City will not permit any waste upon the property nor will it use, occupy, or permit anything to be brought or kept on the property or facility which will violate any laws, ordinances, regulations, or applicable requirements of governmental authorities or in violation of any contract(s) with any insurance companies that insure any part of the property or facility.

XII. Hazardous Material. City covenants, represents, and warrants that it will not install, use, generate, store, dispose of, or otherwise present in, on, or under the property any toxic or hazardous substance, including without limitation, asbestos, flammable explosives, cancer causing chemicals, pollutants, effluents, contaminants, or any substance, ("Hazardous Material"), deemed hazardous or toxic under any law relating to environmental conditions or industrial hygiene and which is stored or kept in a prohibited form or in excess of an allowable quantity.

XIII. Termination - Breach. Should any party fail to fulfill in a timely and proper manner a material obligation under this Agreement or if any party should violate a material term of this Agreement, the non-breaching party shall provide the breaching party with notice of the breach. The breaching party will then have seven (7) calendar days from the receipt of the notice to cure the breach. Upon breach or default of any of the provisions set forth herein, the non-breaching party shall be entitled to any and all damages and other equitable relief permitted under the laws of the State of Tennessee.

XIV. Cooperation. The parties agree to cooperate fully in order to successfully execute the terms and conditions of this Agreement including obtaining all regulatory and governmental approvals required by this Agreement recognizing that the intent of each party to the other is to serve the individual interests of each party while respecting the conditions and obligations of this Agreement.

XV. Limitation on Liability. Each party shall be responsible for its own actions and the actions of their employees, contractors, subcontractors, and agents conducted pursuant to this Agreement. Neither party shall be liable for claims against the other party unless liability is imposed under the Tennessee Governmental Tort Liability Act or other applicable law.

XVI. General Terms.

1. Choice of Law and Forum. This Agreement shall be exclusively governed by the laws of the State of Tennessee. In the event that any section and/or term of this Agreement, or any exhibits hereto, becomes subject to litigation, the venue for such action will be exclusively maintained in a court of competent jurisdiction sitting in Williamson County, Tennessee.

2. Notices. All notices, demands and requests to be given hereunder by either party shall be in writing and must be sent by certified or registered mail and shall be deemed properly given if tendered at the address below or at such other address as either party shall designate by written notice to the other.

County: Williamson County
County Administrative Complex
1320 West Main Street, Suite 125
Franklin, TN 37064

Attn: County Mayor

City: City of Fairview
City Hall
P.O. Box 69
7100 City Center Circle
Fairview, TN 37062
Attn: City Manager

3. Entire Agreement and Modifications in Writing. This Agreement and any exhibits included herewith at the time of execution of this Agreement contain the entire agreement between the parties, and no statement, promises, or inducements made by either party or agent of either party that is not contained in this written Agreement shall be valid or binding; and this Agreement may not be enlarged, modified, or altered except in writing and signed by the parties and attached hereto.

4. Dispute Resolution. The parties may agree to participate in non-binding mediation in an attempt to resolve any disputes. Notwithstanding the foregoing statement, any claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by a court of law.

5. Assignment. The rights and obligations of this Agreement are not assignable.

6. Waiver. No waiver of any provision of this Agreement shall be valid unless in writing and signed by the parties against who charged.

7. Headings. The headings in this Agreement are for convenience and reference and are not intended to define or limit the scope of any provision of this Agreement.

8. Taxes. To the extent as provided by Tennessee Law, each party shall be responsible for the payment of any and all taxes that may be levied and assessed due to any construction undertaken as provided herein or otherwise due to this Agreement or any right arising under this Agreement.

9. Severability. If any one or more of the covenants, agreements, or provisions of this Agreement shall be held contrary to any expressed provisions of law or contrary to any policy of expressed law, although not expressly prohibited, contrary to any express provision of public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements, or provisions of this Agreement.

10. Employment Discrimination. The parties shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal, or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.

11. Specific Performance. The parties recognize that the rights afforded to each under this Agreement are unique and, accordingly, each party shall, in addition to such other remedies as may be available to them in equity, have the right to enforce their respective rights hereunder by an action for injunctive relief and/or specific performance to the extent permitted by law against the other party.

12. No Representations. Except as otherwise expressly set forth in this Agreement, City acknowledges that County has made no representations with respect to the physical condition of the property or facility, the condition of any improvements thereon, or the laws, rules, orders, zoning and building ordinances, regulations, and requirements of any authority applicable thereto.

13. Compliance with Laws. The parties shall comply with all laws of the United States of America, the State of Tennessee, and local laws and shall secure all required permits and licenses and keep the same in force during the term of this Agreement.

IN WITNESS WHEREOF, the County and the City have executed this Agreement effective as of the date and year written below.

ATTEST:

WILLIAMSON COUNTY, TENNESSEE

BY:

BY: Rogers Anderson, Williamson County Mayor

DATE: _____

DATE: _____

APPROVED AS TO FORM AND LEGALITY:



Williamson County Attorney

ATTEST:

CITY OF FAIRVIEW

BY:

BY: Patti Carroll, City of Fairview Mayor

DATE: _____

DATE: _____

APPROVED AS TO FORM AND LEGALITY:

Fairview City Attorney



Bill # 2016-19

ORDINANCE NO. 933

**AN ORDINANCE FOR AN AMENDMENT TO THE CITY OF FAIRVIEW,
TENNESSEE, BUDGET FOR FISCAL YEAR 2016 – 2017 BUDGET**

Be it Ordained by the City of Fairview, Tennessee as follows:

WHEREAS, the Board of Commissioners of the City of Fairview, Tennessee, have determined that the Budget for Fiscal Year 2016 - 2017 (beginning July 1, 2016 and running through June 30, 2017) should be amended to reflect the final expenditures for the Fiscal Year, and:

WHEREAS, the Board of Commissioners of the City of Fairview, Tennessee adopted the fiscal year 2016 – 2017 budget by passage of Ordinance Number 930 on June 23, 2016, and

WHEREAS, pursuant to the Tennessee state Constitution, Article II, Section 24, no public money shall be expended except pursuant to appropriations made by law, and

WHEREAS, pursuant to Tennessee Code Annotated § 6-56-209, the Board of Commissioners has the authority to authorize the Finance Director to transfer money from one appropriation to another within the same fund, and

NOW THEREFORE BE IT ORDAINED BY THE CITY OF FAIRVIEW, TENNESSEE THAT CHANGES BE MADE TO THE FISCAL YEAR 2016-2017 BUDGET AS FOLLOWS:

Section 1. Ordinance 891 is hereby amended to appropriate \$22,700 from the Bowie Park Fund for paving.

Appropriate From Account #	Current Balance	Appropriation Amt.	New Balance
110-27100	\$130,585.00	\$ 22,700.00	\$107,885.00

Appropriate To Account #	Current Budget	Amended Amt	New Budget
110-44700-931	\$ 0	\$ 22,700.00	\$ 22,700.00

Section 2. The Financial Officer is hereby authorized to make said changes in the accounting system.

BE IT FURTHER ORDAINED, If any sentence, clause, phrase or paragraph of this Ordinance is declared to be unconstitutional by any Court of competent jurisdiction; such holding will not affect any other portion of this Ordinance.

BE IT FINALLY ORDAINED, that this Ordinance shall take effect fifteen days (15) days after its first passage or upon second reading, whichever is later, the public welfare requiring it.

MAYOR

CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

Passed First Reading

Passed Second Reading



Bill # 2016-20

ORDINANCE NO. 934

AN ORDINANCE FOR AN AMENDMENT TO THE CITY OF FAIRVIEW, TENNESSEE, BUDGET FOR FISCAL YEAR 2016 – 2017 BUDGET

Be it Ordained by the City of Fairview, Tennessee as follows:

WHEREAS, the Board of Commissioners of the City of Fairview, Tennessee, have determined that the Budget for Fiscal Year 2016 - 2017 (beginning July 1, 2016 and running through June 30, 2017) should be amended to reflect the final expenditures for the Fiscal Year, and:

WHEREAS, the Board of Commissioners of the City of Fairview, Tennessee adopted the fiscal year 2016 – 2017 budget by passage of Ordinance Number 930 on June 23, 2016, and

WHEREAS, pursuant to the Tennessee state Constitution, Article II, Section 24, no public money shall be expended except pursuant to appropriations made by law, and

WHEREAS, pursuant to Tennessee Code Annotated § 6-56-209, the Board of Commissioners has the authority to authorize the Finance Director to transfer money from one appropriation to another within the same fund, and

NOW THEREFORE BE IT ORDAINED BY THE CITY OF FAIRVIEW, TENNESSEE THAT CHANGES BE MADE TO THE FISCAL YEAR 2016-2017 BUDGET AS FOLLOWS:

Section 1. Ordinance 891 is hereby amended to appropriate \$7,500 from the Bowie Park Fund for Nature Center Heating/Air Conditioning Unit Replacement.

Appropriate From			
Account #	Current Balance	Appropriation Amt.	New Balance
110-27100	\$107,585.00	\$ 7,500.00	\$100,385.00
Appropriate To			
Account #	Current Budget	Amended Amt	New Budget
110-44700-266	\$ 5,000.00	\$ 7,500.00	\$ 12,500.00

Section 2. The Financial Officer is hereby authorized to make said changes in the accounting system.

BE IT FURTHER ORDAINED, If any sentence, clause, phrase or paragraph of this Ordinance is declared to be unconstitutional by any Court of competent jurisdiction; such holding will not affect any other portion of this Ordinance.

BE IT FINALLY ORDAINED, that this Ordinance shall take effect fifteen days (15) days after its first passage or upon second reading, whichever is later, the public welfare requiring it.

MAYOR

CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

Passed First Reading

Passed Second Reading
