

MEMORANDUM

August 30, 2013

TO: Board of Mayor and Aldermen

FROM: City Administrator Eric S. Stuckey
Sara E. Sylvis, Risk Manager

SUBJECT: Ordinance No. 2013-43, an ordinance to amend Title 4 of the City of Franklin Municipal Code relative to the City's Occupational Health and Safety Program, to include certain updates as required by Tennessee Occupational Safety and Health Administration

Purpose

The purpose is to update guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the City of Franklin.

Background

This ordinance has not been updated since 2003. In the last TOSHA inspection the City of Franklin received, it was mandated that this ordinance be updated with their current guidelines. The ordinance specifically addresses the importance the City of Franklin places in maintaining an effective occupational safety and health program for all City employees. It also establishes a commitment to all employees that the City of Franklin will continually analyze and identify all hazards and potential hazards, develop and maintain methods for preventing or controlling hazards, and training managers, supervisors and employees to deal with worksite hazards.

Financial Impact

If the City of Franklin continues to be proactive in claims management and following the updated TOSHA guidelines, the financial impact will be noticeable in the reduction of costs per claim. In updating these guidelines, we will continue to lower insurance premiums for our workers' compensation coverage. In our FY 2014 insurance renewal, our WC retention decreased approximately 6% and the WC Loss Fund Deposit decreased approximately 16% due the relatively low level of WC claims.

Options

Not applicable to this item.

Recommendation

Approval of the Ordinance is recommended.

ORDINANCE NO. 2013-43

**TO BE ENTITLED: "AN ORDINANCE TO AMEND TITLE 4 OF
THE CITY OF FRANKLIN MUNICIPAL CODE RELATIVE TO
THE CITY'S OCCUPATIONAL SAFETY AND HEALTH
PROGRAM, TO INCLUDE CERTAIN UPDATES AS REQUIRED
BY TENNESSEE OCCUPATIONAL SAFETY HEALTH
ADMINISTRATION."**

WHEREAS, in accordance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the City of Franklin has adopted an Occupational Safety and Health Program Plan for its employees which was codified by Ordinance 99-51; and

WHEREAS, due to various changes by the Tennessee Occupational Safety and Health division of the Department of Labor and Workforce Development, it has become necessary to amend the program plan; and

WHEREAS, in the best interest of the employees and citizens of the City of Franklin, the Board of Mayor and Aldermen desire to adopt these modifications.

NOW, THEREFORE:

SECTION I: BE IT ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that Title 4, Chapter 3, Section 4-302 of the Franklin Municipal Code shall be amended by adding the text shown in **bold** and deleting the text shown in ~~strike through~~ so that it shall read as follows:

Sec. 4-302. - Purpose and coverage.

The purpose of this chapter is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the City of Franklin.

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

The City of Franklin in electing to establish and maintain an effective occupational safety and health program for its employees shall:

- (1) Provide a safe and healthful place and condition of employment.
 - 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 other devices where reasonably necessary to protect employee.
- (3) ~~Make, Record,~~ keep, preserve, and make available to the commissioner of labor, his designated representatives, or persons within the department of labor to whom such responsibilities have been delegated, including the director of the division of occupational safety and health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the commissioner of labor or his designated representative with regard to the adequacy of the form and content of such records.

(5) Consult with the commissioner of labor, **as appropriate**, regarding safety and health problems, which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the state.

~~(6) Assist the commissioner of labor or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.~~

~~(7) Make a report to the commissioner of labor annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses on accomplishments and progress made toward achieving the goals of the occupational and health program.~~

(8) Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' 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.

SECTION II: BE IT FURTHER ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that Title 4, Chapter 3, Section 4-303(3) of the Franklin Municipal Code shall be amended by adding the text shown in bold and deleting the text shown in strikethrough so that it shall read as follows:

Sec. 4-303. - Definitions.

* * *

(3) *Director of occupational safety and health, safety director or director* means the person designated by the establishing ordinance, resolution, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for the employees of the City of Franklin. The ~~risk manager~~ **Human Resources Director** shall be the person designated within the City of Franklin to be the director of occupational safety and health.

SECTION III: BE IT FURTHER ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that Title 4, Chapter 3, Section 4-309 of the Franklin Municipal Code shall be amended by adding the text shown in bold and deleting the text shown in strikethrough so that it shall read as follows:

Sec. 4-309. - Recordkeeping and reporting.

(1) Recordkeeping and reporting of all occupational accidents, injuries, and illnesses shall be in accordance with ~~instruments~~ **instructions** and on forms prescribed in the booklet, Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970 (Revised 1978) or as may be prescribed by the Tennessee Department of Labor. **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.**

(2) The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix V to this chapter.

(3) Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix V to this chapter. **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 Tennessee Code Annotated, Title 50.**

SECTION IV: BE IT FURTHER ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that Title 4, Chapter 3, of the Franklin Municipal Code shall be amended by adding a new Section 4-317, renumbering subsequent sections accordingly, which shall read as follows:

Sec. 4-317. – 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 Tennessee Code Annotated, Title 50. The employer 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 Safety Director within 30 days, after the alleged discrimination occurred. Also, the employer 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.

SECTION V: BE IT FINALLY ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the public health, safety and welfare requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

BY:

ERIC S. STUCKEY
City Administrator

BY:

DR. KEN MOORE
Mayor

PASSED FIRST READING

PASSED SECOND READING

Approved as to form:

By:

Kristen L. Corn
Staff Attorney