

ORDINANCE TO ESTABLISH OCCUPATIONAL SAFETY & HEALTH PROGRAM, DEVISE RULES AND REGULATIONS, AND TO PROVIDE FOR A DIRECTOR AND NECESSARY PERSONNEL FOR IMPLEMENTATION OF SUCH PROGRAM

In compliance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the Town of Spring Hill hereby establishes "The Occupational Safety and Health Program for its employees.

SECTION 1. BE IT ORDAINED BY THE BOARD* OF THE TOWN OF SPRING HILL, that there be and is hereby created a safety and health program for employees of the Town of Spring Hill, as follows:

TITLE:

This Section shall be known as the "Occupational Safety and Health Program for the Employees of the Town of Spring Hill."

AUTHORITY:

The Town of Spring Hill hereby designates The Mayor hereinafter referred to as the "Director" to establish a safety and health program in compliance with the requirements of the Tennessee Occupational Safety and Health Act of 1972 and he is hereby given the authority to implement a plan which shall encompass the issues and standards which have been promulgated by applicable state standards.

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

- (1) The Director or his authorized representatives shall have the right to enter at any reasonable time any establishment, construction site, plant or other area, workplace or environment where work is performed in the Town of Spring Hill; and to inspect and investigate

* (BOARD OF MAYOR AND ALDERMEN)

any such place of employment and all pertinent conditions, processes, machines, devices, equipment, and materials therein, and to question privately any supervisor or employee.

- (2) The Director may issue subpoenas to require the attendance and testimony of witnesses and the production of evidence under oath for the purpose of confirming or supplementing his findings.
- (3) The Director shall provide for education and training of personnel for the administration of the program, and he shall provide for the education and training of all employees of the town to the extent that same is necessary for said employees to recognize and report safety and health problems as defined in the applicable standards.
- (4) All employees shall be informed of the policies and the standards set forth by the Tennessee Occupational Safety and Health Act.
- (5) All employees of the town shall be informed of safety hazards, exposure to toxic or harmful materials and imminent danger situations that may occur in their jobs.
- (6) The Director or his authorized representative shall upon any allegation of imminent danger immediately ascertain whether there is a reasonable basis for the complaint. He shall make a preliminary determination of whether or not the complaint appears to have merit. If such is the case he or his authorized representative shall:
- (7) Any employee shall be given the right to participate in an investigation or inspection which involves a safety and/or health situation which concerns his work area.

- (8) The Director shall establish a safety and health training program designed to instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment.
- (9) The Director shall contact the Commissioner of Labor of the State of Tennessee by telephone in the event of the death of an employee involved in a work related accident. This notification will be done as soon after the fatality as possible but not to exceed 48 hours.
- (10) The Director shall set up a procedure for requesting a variance from the Tennessee Department of Labor in the event an operation within the **town** does not meet the standards set by the Occupational Safety and Health Act and immediate action to alleviate the discrepancy is not possible.
- (11) The Director shall establish and maintain a system for collecting and reporting safety and health data required under the Tennessee Occupational Safety and Health Act.
- (12) The Director shall apply this program to employees of each administrative department, commission, board, division or other agency of the **Town of Spring Hill**.
- (13) The Director shall make an annual report to the Commissioner of Labor for the State of Tennessee showing the accomplishments and progress of the **Town of Spring Hill** in its Occupational Safety and Health Program.
- (14) The Director shall provide a means whereby any employee may submit a report of what he feels is a safety and/or health hazard to his immediate supervisor and the Director without fear of jeopardizing his job or

chances for future promotion. Such reports shall be preserved and the action thereon shall be noted on said reports and signed by the Director or his designees.

(15) In implementing the plan the Director shall adopt therein all the words and phrases designated as "definitions" in the Tennessee Occupational Safety and Health Act, promulgated regulations and standards thereunder.

(16) The Director shall submit said plan to the Tennessee Department of Labor for approval on or before July 1, 1974

SECTION 2. BE IT FURTHER ORDAINED that said plan upon its approval by the Tennessee Department of Labor shall become effective to the Town of Spring Hill and at that time shall become a part of this ordinance as fully and completely as if set out herein.

SECTION 3. BE IT FURTHER ORDAINED that if any section, subsection, 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 a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4 BE IT FURTHER ORDAINED that this ordinance shall be effective from and after its final passage, the public welfare requiring it.

Passed on 1st. reading

June 18, 1974

Passed on 2nd. reading

June 19, 1974

Passed on 3rd. reading

June 20, 1974

Ralph P. Boyd, Jr.
RALPH P. BOYD, JR., Mayor

Marvin H. Wright
MARVIN H. WRIGHT, Recorder

PROPOSED
OCCUPATIONAL SAFETY AND HEALTH PROGRAM
FOR THE
TOWN OF SPRING HILL, TENNESSEE

I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the **Town of Spring Hill** Occupational Safety and Health Program for the employees, part-time or full-time, of each **Town** department, council, division, or agency of the **Town of Spring Hill**

II. DEFINITIONS

For the purpose of this program:

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

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

(c) "**Town**" means the **Town of Spring Hill, Tennessee** and shall include each **town** department, council, division, or agency of the **Town of Spring Hill, Tennessee**

(d) "**Mayor**" means the chief executive officer designated by the **Town of Spring Hill** to perform duties or to exercise powers assigned so as to plan, develop and administer the **Town of Spring Hill** Occupational Safety and Health Program.

(e) "Employee" means any person performing services for the **Town of Spring Hill** and listed on **Town** payrolls either as part-time or permanent, full-time employees.

(f) "Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives

or any organized group of persons.

(g) "Act" means the Tennessee Legislation entitled "The Occupational Safety and Health Act of 1972".

(h) "Standard" means an occupational safety and health standard promulgated by the State Commissioner of Labor or the State Commissioner of Public Health which requires conditions or the adoption or the use of one or more practices, means, methods, operations or processes reasonably necessary or appropriate to provide safe and healthful employment and places of employment.

(i) "Establishment" or workplace means a single physical location where business is conducted or where services or industrial operations are performed.

(j) "Appointing Authority" means any ~~Town~~ official or group of officials having legally designated powers of appointment, employment, or removal for a specific department or commission.

(k) "Program" means the ^{Town of Spring Hill} Occupational Safety and Health Program.

III. ORGANIZATION

A. The **Mayor** is designated as the chief executive officer to perform duties or to exercise powers assigned so as to administer the ^{Town of Spring Hill} Occupational Safety and Health Program.

1. The **Mayor** may designate person or persons as he deems necessary to carry out his powers, duties and responsibilities under the Program.
2. The **Mayor** shall employ measures to coordinate to the extent possible and activities of all departments to promote efficiency and to minimize any inconveniences

under the Program.

3. The **Mayor** may delegate the power to make inspections, provided procedures employed are as effective as those employed by the **Mayor**.
4. The **Mayor** may request qualified technical personnel from any section of **Town** government to make or assist in making Compliance inspections or investigations of a workplace as needed.
5. The **Mayor** shall prepare an annual report to the Commissioner of Labor to show the accomplishments and progress of the **Town** Occupational Safety and Health Program.

B. The administrative head of each **town** department, council, division or agency of the **Town** is responsible for implementing the Safety and Health Program for the employees in the department, council, division or agency.

1. The administrative head shall follow the orders and directions of the **Mayor** on issues involving Occupational Safety and Health of its employees.
2. The administrative head shall comply with all abatement orders or request a review of the abatement order with the **Mayor**.
3. The administrative head should make periodic safety surveys of the establishment under this jurisdiction to become aware of hazards that exist and make an attempt to immediately correct the observed hazards.

C. Responsibilities of the **Mayor**.

1. Make periodic and follow-up inspections of all the

establishments where ~~town~~ employees are employed, make recommendations to correct any hazards or exposures observed, and make inspections as a result of complaints submitted by employees.

2. Make such reports as are required for an employer having no more than seven (7) employees as specified in paragraph 50-550-116, Small Employers, Regulations for Recordkeeping and Reporting.

IV. RIGHTS AND DUTIES OF THE TOWN OF SPRING HILL

The rights and duties of the Town include, but are not limited to the following provisions.

(a) The Town shall furnish to each of its employees 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) The Town shall comply with occupational safety and health standards or regulations promulgated pursuant to the Tennessee Occupational Safety and Health Act of 1972.

(c) The Town shall assist the State Commissioner of Labor and State Commissioner of Public Health in the performance of their monitoring duties by supplying necessary information at all times.

(d) The Town is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearings on proposed standards, or by requesting the development of standards on a given issue.

(e) The Town is entitled to such an order granting a variance from an Occupational Safety and Health Standard.

(f) The Town is entitled to protection of its legally privileged communications.

(g) The Town shall inspect all installations, departments, job sites and offices to insure the provisions of this program are complied with and carried out.

(h) The Town shall notify and inform any employee who has been or is being exposed to harmful material or agents (that are biologically significant) of all pertinent information regarding the exposure.

(i) The ~~Town~~ shall notify and inform all ~~town~~ employees of their rights and duties under the Occupational Safety and Health Program.

V. RIGHTS AND DUTIES OF EMPLOYEES OF THE TOWN OF SPRING HILL, TENNESSEE

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 standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

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

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

(d) Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the **Mayor**.

(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 an applicable standard shall be notified by the ~~Town~~ and informed of such exposure and corrective action being taken.

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

(g) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or

or caused to be instituted any proceedings or inspection under or relating to this program.

(h) 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 **Town Board** for assistance in giving relief.

(i) Nothing in this section or any other provision of this program shall be deemed to authorize or require 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.

VI. EDUCATION AND TRAINING

A. Compliance Inspector

1. The **Town** will arrange for the **Mayor** and/or designated compliance staff to attend training seminars, workshops, etc. conducted by the State of Tennessee or other state agencies.
2. The **Town** will furnish reference material, manuals etc. deemed necessary for use in making a hazard analysis, writing technical reports, and to assure top management and other employees that hazards do exist.

B. All Employees

The **Town** shall establish a suitable safety and health training program designed to:

1. Instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment to control or eliminate any hazards

or other exposures to illness or injury.

2. Instruct employees who are required to handle poisons, caustics, and other harmful substances, the safe handling and use, and make them aware of the potential hazards, personal hygiene, and personal protective measures required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present, the dangers of the environment, how to avoid injury, and the first aid procedures to be used in the event of injury.
4. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in the safe handling and use of these materials and made aware of specific requirements contained in Subparts H, M, and other applicable subparts of OSHA Standards.
5. (a) Instruct all employees required to enter into confined or enclosed spaces as to the nature of the hazards involved, the necessary precautions to be taken, and in the use of protective and emergency equipment required. The Town shall comply with all specific regulations that apply to work in dangerous or potentially dangerous areas.
(b) For purposes of (a) above, "confined or enclosed space" means any space having a limited means of egress, 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, tunnels, pipelines and open top spaces more than four (4) feet in depth such as pits, tubs, vaults and vessels.

- (c) The department head is responsible for requiring the wearing of appropriate personal protective equipment in all operations where there is an exposure to hazardous conditions.

VII. STANDARDS

The occupational safety and health standards adapted for use in the town Occupational Safety and Health Program is the State of Tennessee's Occupational Safety and Health Standards as developed under Section 6 "Development and Promulgation of Standards" of the State of Tennessee Occupational Safety and Health Act of 1972.

VIII. VARIANCE PROCEDURE

The Mayor may apply for a variance as a result of a complaint from a superintendent or department head or of his knowing of certain exposures or hazards. The Mayor should definitely believe that a variance is needed and the Town Board should vote on the application of a variance, before the application for a variance is submitted to the Commissioner of Labor or Commissioner of Health.

The procedure for applying for a Variance to the adopted safety and health standards as outlined in the State Occupational Safety and Health Act of 1972 is as follows:

- (a) Either the Commissioner of Labor or the Commissioner of Public Health may upon written application by the town issue an order granting to the town a temporary variance from standards promulgated by such Commissioner under this Act. Any such order

shall prescribe the practices, means, methods, operations, and processes which the town must adopt or use while the variance is in effect and state in detail a program for coming into compliance with the standard.

(b) Such a temporary variance may be granted only after notice to employees and interested parties and opportunity for hearing. The variance may be for a period of no longer than required to achieve compliance or one year, whichever is shorter. It may be renewed only once; provided, however, that in the case of employers undertaking experimental programs in safety and health, either programs in cooperation with state or federal agencies or private programs approved by either Commissioner, longer variances may be granted. Application for renewal of a variance must be filed in accordance with provisions in the initial grant of the variance.

(c) An order granting a variance shall be issued only if the town establishes (1) (i) that it 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) that all available steps have been taken to safe guard the town's employees against the hazards covered by the standard, and (iii) that the town has an effective program for coming into compliance with the standard as quickly as practicable; or (2) that the town is engaged in an experimental program as described in paragraph (b) of this section.

(d) An application for a temporary variance shall contain:

(1) a specification of the standard or portion thereof from

which the employer seeks a variance.

- (2) A detailed statement of the reasons why the town is unable to comply with the standard supported by representations by qualified personnel having firsthand knowledge of the facts represented.
 - (3) A statement of the steps the town has taken and will take (with specific dates) to protect employees against the hazard covered by the standard.
 - (4) A statement of when the town expects to comply and what steps the town has or will take (with dates specified) to come into compliance with the standard.
 - (5) A certification that the Town informed its employees of the application by giving a copy of it to their authorized representatives, 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 employed to inform employees and that employees have been informed of their right to petition the Commissioner for a hearing.
- (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 and eighty (180) days.

IX. IMMINENT DANGER

A. Definition

- (1) Imminent danger means any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal enforcement procedures.
- (2) Serious physical harm is 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; 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 bodily system would be inhibited in its normal performance 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, breaks, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

B. Procedure for Handling Allegations of Imminent Danger.

(1) General

Any allegation of imminent danger received shall be handled in accordance with the following procedures:

- (a) The **Mayor** or his authorized representative

shall immediately ascertain whether there is a reasonable basis for the complaint.

- (b) If the imminent danger complaint appears to have merit, the **Mayor** or his authorized representative shall cause an immediate inspection of the alleged imminent danger location.

C. Inspection.

(1) Scope.

- (a) In an inspection conducted because of an alleged imminent danger, the imminent danger situation shall be inspected first.
- (b) Any other inspection activity should take place only after the imminent danger situation has been resolved.
- (c) If, an imminent danger situation is alleged or brought to the attention of the Compliance Inspector during a routine inspection, he shall immediately inspect the imminent danger situation and proceed with the procedures in this section.

(2) Procedures.

- (a) As soon as it is concluded that conditions or practices exist which constitute an imminent danger, the Compliance Inspector shall attempt to have the danger corrected through voluntary compliance. If any employees appear to be in immediate danger, they should be informed of the danger, and the supervisory personnel in charge should be requested to remove them from the area of immediate danger.
- (b) The administrative head of the workplace and his

authorized representative are responsible for determining the manner in which he will abate the dangerous condition.

(c) The imminent danger shall be deemed abated if the imminence of the danger has been eliminated by removing the employees from the area of danger or the conditions or practices which resulted in the imminent danger has been eliminated.

(d) A written report shall be made to the **Mayor** describing in detail the imminent danger and its abatement.

D. Refusal to abate.

1. If abatement is refused, the Compliance Inspector shall immediately notify the **Mayor** for assistance in obtaining voluntary compliance.

2. The **Mayor** shall take whatever steps are necessary to achieve abatement.

X. GENERAL INSPECTION PROCEDURES

A. Advance Notice of Inspections.

Generally inspections are conducted without advance notice of inspection. This avoids giving supervisory personnel the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment. On the other hand, there may be occasions where notice is necessary to conduct an effective investigation. When advance notice of inspection is given, such notice shall also be given to the authorized representative of employees.

B. Entry of the Establishment

(1) Inspections shall be made during regular work hours, except as special circumstances may require.

(2) The Supervisory personnel shall cooperate with the Compliance Inspector. Any resistance encountered by the Compliance Inspector shall be reported to the

Mayor

C. Opening Conference

An opening conference is held with the superintendent, or Department Head or his designated representative at or near the worksite. The Compliance Inspector states the purpose of his visit and is to make an investigation to ascertain whether the establishment is in compliance with the City Occupational Safety and Health Program.

D. Establishment Inspection

A representative from the supervisory personnel and a representative authorized by the employees shall be given an opportunity to accompany the Compliance Inspector during the physical inspection of any workplace for the purpose of aiding such inspection.

The city Safety and Health Program does not require that there be an employee representative for each inspection. Employees shall be given an opportunity during the inspection to bring hazardous conditions to the attention of the Compliance Inspector. Where there is no authorized employee representative on the inspection, the Compliance Inspector shall consult with a reasonable number of employees concerning matters of safety and health in the workplace. Interviews of employees during the

course of the inspection when accompanied by an employee representative may be made when such interviews are essential to the investigative technique.

The Compliance Inspector may deny the right of accomplishment to any person whose conduct interferes with a full and orderly inspection. In addition, the employee representative should be advised that during the inspection he should avoid discussing with employees matters unrelating to the inspection. Inspections, shall be such as to preclude unreasonable disruption of the operations of the establishment.

E. General Instructions

- (1) The Compliance Inspector may take the time to inspect all aspects of the operations at the establishment being inspected.
- (2) The primary aim of inspection is the enforcement of safety and health standards. However, the Compliance Inspector should ascertain whether the workplace has:
 - (a) A copy of the City Occupational Safety and Health Plan available for inspection by employees complied with the recordkeeping requirements.
 - (b) Given advance notice to employees if such notice is required.
 - (c) During follow-up inspections, the Compliance Inspector should ascertain whether the employer has complied with the citation posting requirement.

F. Closing Conference

Upon completion of an inspection, the Compliance Inspector shall confer with the establishment representative, and advise

him of all conditions and practices disclosed by the inspection which may constitute safety or health violations.

G. Complaints or reports of violations received by the Compliance Inspector during the inspection of the workplace. It is encouraged that complaints or reports of violations meet the formality requirements for such complaints.

However, should an imminent danger situation be reported in a manner not meeting the formality requirements, this situation shall be included in the inspection of the workplace.

XI. ABATEMENT ORDER

(a) If, upon an inspection or investigation, the Mayor or his authorized representatives, finds that any workplace is not in compliance with any standard or regulation, he shall, with reasonable promptness, issue to the administrative head responsible for the workplace a written abatement order that states the nature and location of the violation; the standard or regulation violated; the abatement and correction requirements; and a period of time during which the workplace must accomplish such abatement and correction. A copy of each abatement order shall immediately be posted at or near each location referred to in the abatement order and remain posted until the alleged violation has been corrected or vacated.

XII. PENALTIES

1. The Town shall not issue monetary penalties against any administrative department, council, division, or other agency of the Town for failure to comply with the safety and health standards.

2. Any employee who willfully and repeatedly violates or causes to be violated a safety standard, rule, regulation or order shall be subject to disciplinary action by the appointing authority. The appointing authority has the power to administer discipline and it shall be his duty to take action in one of the following ways:

- | | |
|--------------------|-----------------------|
| (a) Oral reprimand | (b) Written reprimand |
| (c) Suspension | (d) Termination |

3. The employee that is being disciplined shall have the right of appeal to the Mayor and/or the Town Board.