



**Fort Smith Transit EEO  
Voluntary Program 2023**



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## **Voluntary Equal Employment Opportunity Policy**

Fort Smith Transit's (FST) funding partner the Federal Transit Administration (FTA) does not require FST to possess or maintain an EEO Policy due to its population being less than 200,000. However, FST maintains a voluntary EEO policy to ensure that FST applicants are employed and treated without regard to race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to hiring, promotion, or upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, disciplinary actions, rates of pay or other forms of compensation, and selection for training. Fort Smith Transit will follow the City's affirmative action plan which is designed to achieve full utilization of women and minorities in all parts of the workforce. Applicants will be notified of the policy and process to file a complaint concerning discrimination.

The Civil Rights Officer under the direction of the Transit Director is responsible for program oversight. While managing the EEO program the CRO will be sensitive to the utilization of women and minorities, participation rates relative to the current labor market, and traditional exclusions of employment opportunities. The CRO will work to assess specific racial group information and data for goal projection, as well as identify causes of underutilization (if any) while monitoring the program. Transit management will be evaluated for their participation in the EEO program and all employees will share equally in learning the program requirements and its significance.

Internal applicants may reference the City Handbook for policy information regarding discrimination. External applicant request(s) or concerns may be made in writing to Gregory A. Carthon, Civil Rights Officer, at P.O. Box 1908, Fort Smith AR 72902. Requests or concerns may also be reported directly by phone at (479) 783-6464 or 7-1-1 (Arkansas Relay Service for the hearing impaired). Requests or concerns may also be directed to the Human Resources department at 479-784-2221.

To ensure effective outreach, the department will post the program on the department's website and maintain a posting in the public meeting room near the driver's break area to highlight the procedures to file a complaint with the EEOC. The department will also place the following phrase on all of its brochures and advertisements; FST does not discriminate in admission or access to, or treatment or employment in, its program or activities.

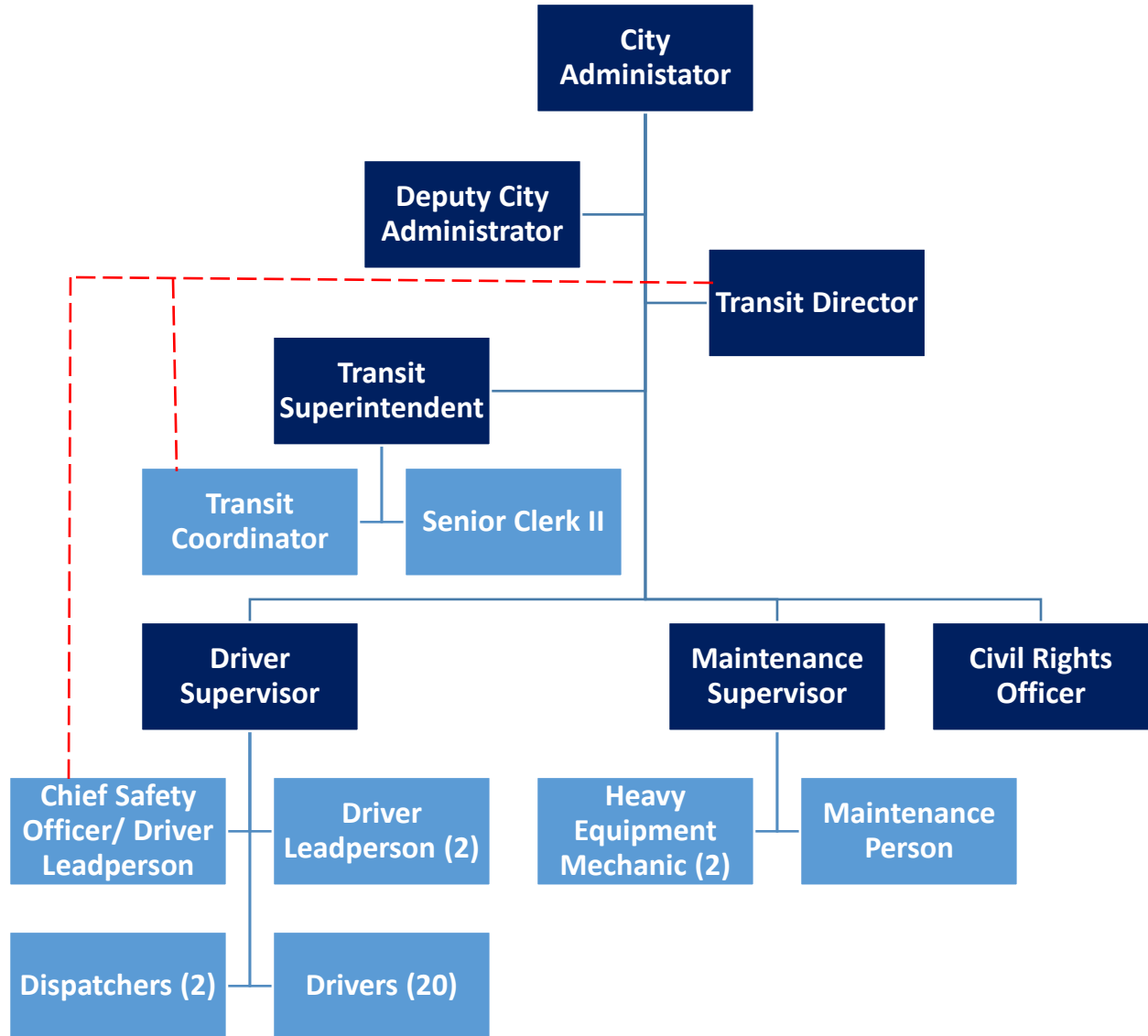
The purpose of the EEO program is to ensure equality in all employment practices as well as program adherence with regard to federal requirements.



# City of Fort Smith

Transit

## Organizational Chart





## Schedule of Personnel

Employee Positions	Pay Grade
Director	51
Transit Superintendent	44
Mechanic Supervisor	40
Driver Supervisor	40
Transit Coordinator	39
Civil Rights Officer	37
Chief Safety Officer	36
Heavy Equipment Mechanic	35
Driver Leadperson	35
Dispatcher	34
Senior Clerk II	34
Driver	33
Maintenance Person	33

Funding Allocation: 100% General Fund

Note: Transit receives federal reimbursement for personnel and operating costs at 50% and capital at 80% including maintenance of revenue vehicles and maintenance salaries.

ORDINANCE NO. 85-11

AN ORDINANCE APPROVING THE HUMAN RESOURCES  
POLICY FOR NON-UNIFORMED EMPLOYEES (2011)  
AND RESCINDING PRIOR POLICIES

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH,  
ARKANSAS, THAT:

Section 1: The attached Human Resources Policy for Non-Uniformed Employees  
(2011) is hereby approved. The City Administrator and his designated agents, including the  
Director of Human Resources, are hereby authorized and directed to implement said Policy.

Section 2: All ordinances and policies of the City in conflict with the Policy approved  
by Section 1 are hereby rescinded.

This Ordinance adopted this 4<sup>th</sup> day of October, 2011.

APPROVED:

  
Mayor

ATTEST:

  
City Clerk

Approved as to form:

  
City Attorney  
No Publication Required

**AN ORDINANCE AMENDING ORDINANCE 85-11 AND APPROVING THE HUMAN RESOURCES POLICY FOR NON-UNIFORMED EMPLOYEES RELATING TO DOMESTIC VIOLENCE.**

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**BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:**

Section 1: (Human Resources Policy) of Ordinance No. 85-11 is amended by adding a section "G" to read as follows:

G. The City follows a "zero tolerance" policy with regard to acts of domestic violence committed by its own employees. The City does not condone domestic violence perpetrated by any employee regardless of where the incident has occurred.

1. The City does not hire new employees whose histories include a conviction for domestic violence or child abuse, or whose background investigations indicate an elevated risk for domestic violence behavior. City employees who are convicted of a domestic violence offense will be terminated.
2. The City expects employees who become aware of incidents of domestic violence involving co-workers to report such occurrences to an appropriate supervisor, department head or human resources director in a timely manner.
3. When incidents of domestic violence involving a City employee as the victim do occur, the City will be sensitive and non-judgmental toward the victim and will provide access to the city's Employee Assistance Program (EAP).

**Prohibited actions**

1. No City employee shall engage in behavior which he/she knows, or reasonably should know, serves to retaliate against, harass, intimidate or coerce a victim, witness or reporting party who is or has been involved in a domestic violence incident.
2. A City employee who is a victim, witness or reporting party in a current or past investigation of a city employee-involved in domestic violence shall report any attempt by any employee to retaliate against, harass, intimidate or coerce them based on his/her involvement in that investigation to his/her supervisor, department head or to the human resources director in a timely manner.

City employees who violate any portion of this policy may be subject to disciplinary action, up to and including termination of employment.


**SECTION 2:** Emergency Clause. It is hereby determined that the provisions of this Ordinance should be immediately effective in order to put in force a "zero tolerance" policy with regard to acts of domestic violence committed by its own employees. Therefore, an emergency is declared to exist, and this Ordinance, being necessary for the protection of the health, safety and welfare of the inhabitants of the City, shall be of full force and effect from the date of its adoption.

This Ordinance adopted this 17<sup>th</sup> day of March, 2015.

APPROVED:

  
Mayor

ATTEST:

  
City Clerk

  
NPR Asst City Attn





## Human Resource Policy and Appointment

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## Section I. Human resources policy.

- A. The following human resources principles and policies are established:
1. Employment in the city government will be based on ability and qualifications free from personal favoritism and political considerations.
  2. Just and equitable policies and conditions of employment will be established and maintained to promote efficiency and economy in operation of the municipal government.
  3. Positions having similar duties and responsibility will be classified and compensated on a uniform basis.
  4. Personnel appointments will be based solely on the basis of job-related merit and ability to do the job.
  5. Continuity of employment covered by this policy will be subject to good behavior, satisfactory work performance and the availability of funds. Neither this policy nor the contents of any other human resources policy and procedure handbook that may be used by the city, nor any oral promise, will constitute or imply an employment contract. Rather, employment with the City of Fort Smith is at-will and for an indefinite period of time, capable of being terminated at any time by the employee or by the city.
  6. Every effort will be made to encourage high morale by fair administration of human resources policies and by every consideration of the rights and interests of employees consistent with the best interests of the public and the city. This includes open and fair communication efforts between supervisors and employees. However, if an employee believes his or her rights and interests have not been sufficiently considered, he or she may follow a progressive resolution process by presenting the issue, either verbally or in writing, to:
    - a. The employee's immediate supervisor. If the employee believes sufficient consideration of the issue is not achieved, then the employee may proceed to step b.
    - b. The employee's department director. If the employee believes sufficient consideration of the issue is not achieved, then the employee may proceed to step c.
    - c. The director of human resources. The director of human resources will meet with the employee and determine appropriate steps to achieve sufficient consideration of the issue. If the employee believes sufficient consideration of the issue is not achieved, then the employee may proceed to step d.
    - d. The city administrator or his designee. The city administrator will determine any appropriate steps to achieve sufficient consideration of the issue. The city administrator's decision will be final.
    - e. The resolution process outlined above is not, however, intended to be a formal grievance procedure and, consequently, is specifically not to be construed as to obligate the city to adhere strictly to the process or to obligate the city to any form of arbitration.
- B. The provisions of this policy will be applied equally to all employees and applicants without regard to race, color, religion, sex, national origin, handicap or disability, or status as a Vietnam era, special disabled or other veteran who served on active duty during a war campaign in accordance with federal laws. In addition, the provisions of this policy will apply equally to all employees and applicants without regard to sexual orientation or gender identity, and the City of Fort Smith will comply with all applicable State of Arkansas laws governing nondiscrimination in employment. This policy applies to all terms and conditions of employment including, but not limited to, hiring, placement, promotion, demotion, discipline, termination, layoff, recall, transfer, leave of absence, compensation and training.
1. To further the principle of equal opportunity for all, the City of Fort Smith has voluntarily developed an affirmative action policy for minorities and women, the handicapped or disabled, and Vietnam era, special disabled or other veterans or those who served on active duty during a war campaign.
  2. The City of Fort Smith expressly prohibits any form of unlawful employee harassment based on race, color, religion, sex, national origin, age, handicap or disability, sexual orientation, gender identity, or status as a Vietnam era, special disabled or other war campaign veteran. Improper interference with the ability of City employees to perform their expected job duties will not be tolerated.

- C. All city employees must be treated equally in their terms and conditions of employment. The harassment of any employee is contrary to this and may be considered a violation of federal law and will be considered justification for disciplinary or other appropriate action. This applies to all employees, supervisors, agents and nonemployees who have contact with employees during working hours. The following defines harassment and outlines the method by which it should be reported:
1. Harassment is any annoying, persistent act or action that singles out an employee to that employee's objection or detriment, because of, but not limited to, race, sex, religion, ancestry, national origin, age, physical disability, mental conditions, marital status, sexual orientation or gender identity. Harassment may include any of the following:
    - a. Verbal abuse or ridicule. This includes epithets, derogatory comments, slurs or unwanted sexual advances, invitations or comments.
    - b. Interference with an employee's work. This includes physical contact such as assault, blocking normal movement, or interference with work directed at an individual because of his/her race, color, religion, sex, national origin, age, handicap or disability, sexual orientation, gender identity or status as a Vietnam era, special disabled or other war campaign veteran.
    - c. Displaying or distributing sexually offensive or racist materials. This includes derogatory posters, cartoons, drawings or gestures.
    - d. Discriminating against any employee in work assignment or job-related training.
    - e. Unwelcome intimate physical contact.
    - f. Making offensive innuendoes.
    - g. Demanding favors (sexual or otherwise), explicitly or implicitly, as a condition of employment, promotion, transfer, or any other term or condition of employment.
    - h. Retaliation for having reported harassment or cooperating with an investigation.
  2. It is every employee's responsibility to ensure that his or her conduct does not include or imply harassment in any form. If however, harassment or suspected harassment has or is taking place, it is the employee's duty to report the harassment.
  3. An employee should report the harassment or suspected harassment immediately to their supervisor, department director, or director of human resources. If possible, this complaint should be in writing, setting forth all pertinent facts. However, the complaint does not have to be in writing. All communication concerning the complaint will be confidential, to the extent feasible, and provided only to those employees and legal council of the city on a need-to-know basis.
    - a. Any employee who receives a report of or has knowledge of harassment will promptly inform the department director or director of human resources.
    - b. Each complaint will be investigated by the director of human resources or designee and a determination of the facts will be made on a case-by-case basis. Recommendation of appropriate action up to and including discharge will then be taken to the appropriate department director, or deputy city administrator or city administrator.
    - c. Employees will refrain from reporting bad faith complaints. If the investigation finds that the complainant falsely accused another of sexual harassment knowingly or in a malicious manner, the complainant will be subject to disciplinary action.
    - d. Employees have an obligation to cooperate fully and truthfully with the investigation.
    - e. The results of the investigation will be kept confidential and provided only to those employees and legal council of the city on a need-to-know basis.
    - f. The investigation files, including the complaint, will be maintained by the director of human resources. Any disciplinary action taken will also be documented in the disciplined employee's personnel file.
  4. The city will not tolerate harassment or any form of retaliation against an employee who has either reported or cooperated in an investigation of alleged harassment. Violation of this provision may result in disciplinary action up to and including termination.

- D. The city will have a "zero tolerance" policy for workplace violence. Zero tolerance means that threats, intimidation, harassment, or acts of violence (particularly employee against employee assaults) will not be tolerated. If any employee displays or threatens any violent activity in the workplace, he or she will be subject to immediate disciplinary action up to and including termination of employment.
1. Definitions and clarifications of terms are as follows:
    - a. Workplace violence: An implied or actual act or threat made directly or indirectly that creates, or could create, physical harm to employees, their families, friends or property that takes place at the workplace or because of performing work duties associated with employment by the City of Fort Smith.
    - b. Long gun: Any firearm with a barrel length greater than or equal to 12 inches designed, made, or adapted to be fired with two hands.
    - c. Handgun: Any firearm with a barrel length of less than 12 inches designed, made, or adapted to be fired with one hand.
    - d. Knife: Any bladed (a blade of 3½ inches or longer) hand instrument that is capable of inflicting serious physical injury or death by cutting or stabbing. It includes a dirk, sword or spear in a cane, razor, ice pick, throwing star, switchblade, or butterfly knife.
    - e. Club: Any instrument that is specially designed, made or adapted for inflicting serious physical injury or death by striking, including a blackjack, billie, and sap.
    - f. Course of conduct: A pattern of conduct composed of two or more acts separated by at least 36 hours but occurring within one year. Constitutionally protected activity is not included within the meaning of course of conduct.
    - g. Stalking: A person commits stalking if he or she purposely engages in a course of conduct that harasses another person and makes a terroristic threat with the intent of placing that person in imminent fear of death or serious bodily injury or placing that person in imminent fear of the death or serious bodily injury of his or her immediate family.
    - h. Harassment: A person commits harassment if, with intent to harass or threaten another person, the person:
      - i. Communicates or causes a communication with another person by verbal, electronic, mechanical, telegraphic, telephonic or written means in a way that harasses or threatens.
      - ii. Continues to follow another person in or about a public place for no legitimate purpose after being asked to desist.
      - iii. Engages in a course of conduct or repeatedly commits an act that harasses or threatens another person.
  2. It is prohibited for any employee, while on city property or while conducting city business, to carry (or possess), maintain in a vehicle, or maintain in a desk, locker, a personal item or otherwise have readily available for use as a potential weapon, any loaded or unloaded long gun or handgun, knife, club, ammunition or item that clearly is intended as a weapon. For the purpose of this prohibition, a city tool is not considered to be a prohibited weapon.
  3. The following actions are prohibited:
    - a. While on city property or while conducting city business, any person's involvement in workplace violence including, but not limited to, any act of violence (including pushing and shoving) or threats of violence (including "joking" or intimidation of others).
    - b. Any course of conduct by a city employee that may or may not occur on city property or while conducting city business, and involves another city employee(s), their families, friends, or property that includes stalking or harassment as defined above and by the laws of the State of Arkansas.
  4. Searches inspection:
    - a. A department director, or his designated representative, has the right to search and inspect all city work areas and equipment, including but not limited to buildings, vehicles, desks, lockers, computers, and storage areas.

- b. A department director may also conduct a reasonable search of an employee's personal property, if presently situated on city property, provided the employee consents to the search in writing. If a department director has a reasonable suspicion, as validated by objective facts and observations, that an employee may be concealing a prohibited weapon in an article of personal property, the department director will contact the director of human resources who may involve law enforcement.
5. Duty to report:
- a. All city employees have a duty to contribute to workplace safety. This duty includes reporting information about perceived, potential, or real problems that may involve workplace violence. Employees are encouraged to report their concerns to their supervisor, department director, or the director of human resources. If appropriate, an investigation will be undertaken and specific action will be pursued.
- E. Code of business conduct. The code of business conduct sets out basic principles and standards of conduct to guide all employees and volunteers who represent the city in any capacity. The Code is to promote public confidence in the integrity of city government and its effective and fair operation. This Code is a means to employ independent, objective judgment in the performance of municipal duties. Municipal matters are to be based on merit, free from avoidable conflicts whether real or apparent.

The City of Fort Smith is committed to treating public services as a public trust. The city desires to use the power and resources of public service to advance the public trust and not for the purposes of attaining personal or private benefit.

The city does want this policy to discourage anyone from serving the city in any appointed, elected or volunteer position. Some municipal representatives, such as independent contractors, vendors and volunteers, may conduct business with the city in their capacity as business persons. However, under this policy, those same municipal representatives would be required to abstain or recuse themselves when a decision they influence may provide personal benefit or gain to them.

The code of business conduct addresses standards for ethical behavior by municipal representatives. As with any policy, it is not possible to provide guidance for all improper business practices. If a situation arises which is ambiguous or is not specifically addressed by this Code, municipal representatives should avoid the potential conflict of interest or compromising action. If a municipal representative has questions or concerns, he or she may contact the city's internal auditor for guidance.

1. Definitions are as follows:

- a. *Appointed officials.* Persons appointed to serve on any municipal board, commission or committee as authorized in the City of Fort Smith Code of Ordinances and Arkansas state law.
- b. *Arkansas Ethics Commission.* The commission established by A.C.A. § 7-6-217 to review reported violations of conduct by elected and appointed officials.
- c. *Business entity.* Any of the following entities whether or not carried on for the purpose of profit: business, sole proprietorship, firm, partnership, unincorporated association, venture, trust, or corporation.
- d. *Contract.* Any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished for a valuable consideration or is to be sold or transferred. For purposes of the Code, "contract" does not include:
  - i. Contracts awarded to the lowest responsible bidder based on competitive bidding procedures;
  - ii. Merchandise sold to the highest bidder at public auctions;
  - iii. Investments or deposits in financial institutions which are in the business of loaning or receiving monies;
  - iv. Contracts with a corporation in which a municipal representative exercising an official action holds a de minimis interest, i.e., five percent or less.
- e. *Employee.* Any person holding any paid position of employment with the city.
- f. *Fiduciary duty.* A responsibility of, relating to, or involving a confidence or public trust.

- g. *Gift.* Any payment, entertainment, advance, services, or anything of value, unless consideration of equal or greater value has been given therefor. Per state law, an allowable gift to public officials is anything which is \$50.00 or less in value.
- h. *Independent contractor.* A person or entity other than an officer or employee who is paid for services rendered to the city pursuant to a contract for services and any officer, employee, agent, volunteer or subcontractor of such person or entity.
- i. *Interest.* A substantial interest held by an individual that is:
  - i. An ownership in a business;
  - ii. A creditor interest in an insolvent business;
  - iii. An employment or a prospective employment for which negotiations have begun;
  - iv. An ownership interest in real or personal property;
  - v. A loan or any other debtor interest; or
  - vi. A directorship or officership in a business.

The term "interest" is intended to reflect a pecuniary, property, or commercial benefit, or any other benefit the primary significance of which is economic gain or the avoidance of economic loss, but does not include any matter in which a similar benefit is conferred to all persons or property similarly situated. Any relation with [the] following persons or an interest in the following entities will be deemed to constitute an interest of a municipal representative:

- i. Any relative or municipal representative; or
  - ii. Any business entity in which the municipal representative is an officer, director, employee, partner or owner; or
  - iii. Any business entity in which the municipal representative owns or controls shares of stock, the aggregate of which constitutes more than one percent shares of the business entity then outstanding. Participation in a stock mutual fund shall not be considered an interest in a business entity of which the mutual fund owns or controls shares of stock.
- j. *Municipal representative.* An officer, elected official, appointed official, employee, independent contractor, or volunteer of the city, including candidates for elected positions.
- k. *Officer.* All elected or appointed officials including but not limited to:
  - i. Mayor;
  - ii. Director;
  - iii. District judge;
  - iv. City and deputy administrator;
  - v. Treasurer;
  - vi. City attorney and city prosecutor;
  - vii. City clerk and assistant city clerk;
  - viii. Police chief; and
  - ix. Fire chief.
- l. *Relative.* Any person related to a municipal representative by blood or marriage, in any of the following degrees: parents, spouse, children, stepchildren, brothers, sisters, parents-in-law, nephews, nieces, aunts, uncles, first cousins, grandparents, grandchildren and children-in-law. A separation between spouses shall not be deemed to terminate relationships described herein.
- m. *Verified complaint.* A written complaint containing a statement signed by a person indicating he or she has personal knowledge of the complaint and knows them to be true.

- n. *Volunteer.* Any person who is appointed or authorized to act on behalf of the city in any manner without compensation.

2. Code of conduct.

- a. Conflicts of interest. Municipal representatives must avoid conflicts of interest involving the city or its business. A conflict of interest occurs when an individual's private interest interferes in a way, or even appears to interfere, with the interests of the city as a whole. A conflict situation can arise when a municipal representative takes actions or has interests that may make it difficult to perform his or her work for the city objectively and effectively. Conflicts of interest also arise when a municipal representative or their relatives receive improper personal benefits with the city. In accordance with state laws, officers will disclose financial interests and they will abstain from participating in deliberations and decision-making where conflicts may exist.

In the event that a municipal representative considers that a personal association may cause or appear to cause a potential conflict of interest, he or she may declare such in writing and request that the declaration be kept on file.

- b. Impartiality in the performance of duties. Municipal representatives will perform their duties without regard for personal benefit.
- c. Financial interests. A municipal representative is prohibited from engaging in a financial transaction for his or her private business purposes as it relates to city business. Furthermore, a municipal representative will not perform an official act, that would provide an economic benefit, a business or other undertaking in which he or she either has an interest or is engaged as counsel, consultant, representative or agent.
- d. Representation before boards, committees or commissions. A municipal representative will not appear before the city board or any commission or committee on matters for which or over which he or she sits or has supervisory or advisory responsibilities, except in the official representation of the city.
- e. Political activities—Officers are nonpartisan. There will be no partisan references or campaigning for political office at meetings of the board or any city commission or committee. Partisanship will not be a factor in any official action of any municipal representative.

Laws governing employee involvement in political activities shall be adhered to in accordance with federal and state laws. Specifically, A.C.A. §§ 21-1-501 through 21-1-503 will be followed.

- f. Misuse of position. All municipal representatives have a fiduciary duty to refrain from using their positions in any manner for personal or private gain or which is detrimental to the public good. Municipal representatives must be mindful that the appearance of impropriety can be as corrosive as an actual impropriety, and must strive to avoid situation which may create an appearance of impropriety.
- g. Misuse of city assets. Unless provided in section III.O, municipal representatives must not request, direct or permit for personal use the use of any city vehicle, equipment, or facilities not available to the general public. City funds and resources shall not be directed for personal use or gain by municipal representatives.
- h. Confidential information. Municipal representatives shall respect the confidentiality of information concerning city property, personnel or proceedings of the city. They shall neither disclose confidential information without proper authorization, nor use such information to advance their personal interests.
- i. Nepotism.
  - i. Employment procedures. It shall be a violation of the Code to engage, hire or appoint a relative of a municipal representative unless the city's personnel policies applicable to such employment appointment have been followed.
  - ii. Terms of engagement. Municipal representatives are prohibited from influencing or attempting to influence the compensation, benefits, or other terms and conditions or engagement by or service to the city applicable to any relative of a municipal representative.

- j. Gifts. Gifts in value greater than \$50.00 shall not be accepted by municipal representatives for services or official actions while performing official duties of his or her position. The acceptance of cash or the equivalent is never permitted. Municipal representatives shall not solicit gifts. The city follows state law regarding the definition of gifts in A.C.A. §§ 21-8-401 through 21-8-804.
  - k. Outside employment or service. Municipal representatives shall not engage in or accept any employment or service, other than employment by the city, if such employment or service reasonably would tend to impair the municipal representative's independence of judgment in the performance of his or her duties. Outside employment by employees must follow applicable city personnel policies in section III.L.
  - l. Fund-raising activities. Political fund-raising is prohibited by municipal representatives on city time, in a city uniform, or in a city workplace. Charitable fund-raising by employees in a city workplace and on city time must be pre-approved by the city administrator.
  - m. Contracts with the city. Municipal representatives shall not be engaged as a vendor or independent contractor with the city when their city position is a factor in the decision-making process and the relationship would create a conflict of interest.
  - n. Crimes. Municipal representatives may be terminated or removed from their position if convicted of a felony or a misdemeanor which relates directly to their official duties.
  - o. Discrimination. Municipal representatives shall not violate any federal, state or city laws prohibiting discrimination.
  - p. Sexual harassment. Municipal representatives shall not violate any federal, state or city laws prohibiting sexual harassment.
  - q. Retaliation. Municipal representatives shall not violate any federal, state or city laws prohibiting retaliation, including retaliation against whistle blowers or those filing claims against the city, specifically, A.C.A. §§ 21-1-601 through 21-1-609 will be enforced.
  - r. Similar conduct. Other similar conduct which threatens the public confidence in the integrity of government, including but not limited to, illegal conduct, conduct which puts self interest before public interest, or conduct involving dereliction of duties is prohibited.
  - s. Other policies or rules of conduct. A municipal representative may be required to follow more stringent policies or rules of conduct, such as departmental personnel policies. The more stringent policies or rules must be followed.
3. Enforcement.
- a. Complaints. A verified complaint in writing, signed by someone with personal knowledge of the facts giving rise to the complaint, which states the name of any person alleged to have committed a violation of the Code and which sets forth the particulars thereof shall be reported to:
    - i. Arkansas Ethics Commission for violations involving elected officials;
    - ii. City board of directors for violations involving appointed officials and volunteers; and
    - iii. Director of human resources for violations involving employees.

The filing of a frivolous complaint by a municipal representative shall be considered a violation of this Code.
  - b. Investigation. Following receipt of an internal or external verified complaint or upon the receipt of other information, whether or not under oath, that provides a reasonable basis to believe that a violation of the Code has been committed or that an investigation of a possible violation is warranted, the city internal auditor will provide a written report within five business days of receiving the complaint. If evidence exists that a violation has occurred, the violator shall be notified and the report shall be presented to the appropriate level of authority.



F. Identity theft prevention program.

1. The Federal Trade Commission (FTC) and several other Federal agencies jointly issued a final rule and guidelines implementing section 114 of the Fair & Accurate Credit Transactions Act of 2003 ("FACT" Act). The FTC has set forth the Identity Theft Prevention Program (ITPP) requirement in 16 CFC Subsection 681.2.
2. The purpose of the ITPP is to establish policies and procedures to detect, prevent, and mitigate identity theft in connection with the opening of a covered account or any existing covered account. This program shall apply to all city departments that receive payments for services.
3. Identify red flags. Red flags are the potential patterns, practices, or specific activities indicating the possibility of identity theft. The following red flags may be used to detect potential fraud. These are not intended to be all inclusive and other suspicious activity may be investigated as necessary.
  - a. Consumer report includes a fraud or active duty alert, a notice of credit freeze and/or a notice of address discrepancy.
  - b. Documents provided for identification appear to have been altered or forged.
  - c. Photograph, physical description and/or other information on the identification is not consistent with the appearance of the person presenting the identification.
  - d. Information on the identification is not consistent with readily accessible information that is already on city documents.
  - e. Information provided is inconsistent when compared against external information sources (e.g. address does not match any address in the consumer report and/or Social Security Number has not been issued or is associated with a deceased person).
  - f. Information provided by the customer is inconsistent with other information provided by the customer (e.g. no correlation between social security number range and date of birth).
  - g. Information provided is associated with known fraudulent activity (e.g. address and/or phone number on an application is the same as the address provided on a previous fraudulent application).
  - h. Information is of a type commonly associated with fraudulent activity (e.g. address on an application is fictitious and/or phone number is invalid).
  - i. Social Security Number, address and/or telephone number provided is the same as or similar to ones provided by another customer.
  - j. Customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
  - k. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.
  - l. City is notified that it has opened a fraudulent account for a person engaged in identity theft.
4. Detect red flags.
  - a. Require customer opening an account to provide proof of identity which may include but not be limited to: a valid driver's license; photo identity card, state ID card, social security number.
  - b. Verify personal information using records on file or through a third party source such as a consumer reporting agency.
  - c. When fielding a request to access and/or modify an existing account (such as a change of billing address), verify identity of customer by requesting specific pieces of personal identifying information. Only discuss the account with third parties who have been authorized in writing by the customer.
5. Prevent and mitigate identity theft. The following items detail the response actions if employees observe a red flag associated with a new or existing customer account:
  - a. The city will not open a new account (after review of the current identifying information).

- b. For an existing account, the city may discontinue the services associated with that account and/or:
    - i. Continue to monitor the account for evidence of identity theft and contact the customer to discuss possible actions.
    - ii. Change the passwords, security codes, or other security devices that permit access to an existing account.
    - iii. Close an existing account.
    - iv. Re-open an account with a new account number.
  - c. For all instances of suspected or confirmed identity theft, the city will contact the customer and recommend notifying law enforcement.
  - d. Determine that no response is warranted under the particular circumstances.
6. Update the program. This program will be reviewed annually and updated to reflect changes in risks to customers from identity theft based on factors such as:
- a. The city's experience with identity theft;
  - b. Updates in methods of identity theft;
  - c. Updates in customary methods used to detect, prevent, and mitigate identity theft;
  - d. Updates in the types of accounts that the city offers or maintains;
  - e. Updates in service provider arrangements.
7. Program administration.
- a. An annual report, as required by FTC regulations, shall be prepared regarding compliance with red flag requirements and will recommend any material changes that may need to be made to the program.
 

The report will address material matters related to the program and evaluate issues such as the effectiveness of these policies and procedures and significant incidents involving identity theft and management's response.
  - b. Staff training. Any employee with the ability to open a new account, access/manage/close an existing account or accept payment for a covered account will receive training on identifying and detecting red flags. They will also be trained in the appropriate response actions in the event that an instance of identity theft is suspected. As necessary, employees will be retrained if the program is updated or if new response actions are implemented.
8. Service provider oversight. Whenever the city engages a service provider to perform an activity in connection with one or more of the covered accounts, the city will verify that the activity of the service provider is conducted in accordance with the ITPP.
- G. The city follows a "zero tolerance" policy with regard to acts of domestic violence committed by its own employees. The city does not condone domestic violence perpetrated by any employee regardless of where the incident has occurred.
- 1. The city does not hire new employees whose histories include a conviction for domestic violence or child abuse, or whose background investigations indicate an elevated risk for domestic violence behavior. City employees who are convicted of a domestic violence offense will be terminated.
  - 2. The city expects employees who become aware of incidents of domestic violence involving co-workers to report such occurrences to an appropriate supervisor, department head or human resources director in a timely manner.
  - 3. When incidents of domestic violence involving a city employee as the victim do occur, the city will be sensitive and non-judgmental toward the victim and will provide access to the city's employee assistance program (EAP).
 

Prohibited actions:

    - 1. No city employee shall engage in behavior which he/she knows, or reasonably should know, serves to retaliate against, harass, intimidate or coerce a victim, witness or reporting party who is or has been involved in a domestic violence incident.

2. A city employee who is a victim, witness or reporting party in a current or past investigation of a city employee-involved in domestic violence shall report any attempt by any employee to retaliate against, harass, intimidate or coerce them based on his/her involvement in that investigation to his/her supervisor, department head or to the human resources director in a timely manner.

City employees who violate any portion of this policy may be subject to disciplinary action, up to and including termination of employment.

(Ord. No. 21-15, § 1, 3-17-2015; altered in 2019 recodification; Ord. No. 71-21, § 1, 7-20-2021)

## **Section II. Appointment.**

- A. With the exception of the city's civil service (uniformed) employees, all employees of the City of Fort Smith are hereby categorized as either exempt employees or non-exempt employees, as these two groups are defined in this subsection. Unless otherwise expressly indicated, the provisions of this policy will apply uniformly to exempt and non-exempt employees but will not apply to the city's civil service (uniformed) employees. In the event, that a difference exists between this policy and the rules, policies and procedures of the civil services departments of the city, i.e.: police and fire, then non civil service employees who work in a civil service department are required to adhere to the civil service department rules, policies and procedures applicable to non civil service employees.
  1. Exempt employees include any employee employed in a bona fide executive, administrative, or professional capacity as such terms are defined and delimited from time to time by the Fair Labor Standards Act, Codified at 29 U.S.C. Section 201 et seq.
  2. Non-exempt employees include any employee who is not included in the exempt classification and whose salary may vary each week based on the number of hours worked. Overtime pay or compensatory time for a non-exempt employee will be administered in compliance with the Fair Labor Standards Act, 29 U.S.C. Section 201 et seq., and applicable State of Arkansas wage and hour laws.
- B. The board of directors will appoint, discipline, and remove the individual employed in the position of internal auditor. The appointment and removal of persons in all other non-exempt and exempt positions will be determined by the city administrator without the necessity of approval by the board of directors.
- C. All job vacancies with the City of Fort Smith will follow the notification procedure outlined here when filling positions:
  1. If a job opening can be filled from within a program classification, then a job opening notice does not need to be posted.
  2. If a job opening cannot be filled from within a program classification, then a job opening notice is to be posted within the department for five working days. Posting the job is the responsibility of the department director.
  3. If a job opening cannot be filled from within a department, then a job opening notice is to be posted in each department citywide for five working days. Posting the job is the responsibility of the human resources department.
  4. If a job opening cannot be filled from within the city, then employment applications will be accepted from the public for five working days and will be reviewed for qualified applicants.
  5. If a job opening cannot be filled from employment applications taken from the public, then the job opening may be published in the local newspaper. Additional notification may also be circulated to various agencies on the city's employment notification list.
  6. The city reserves the right to adjust the notification process as necessary to speed up the recruitment of any position deemed critical to the operations of the city. In no case will the city bypass any step in the notification process. However, the city may do some or all the steps simultaneously to fill the open position in the shortest time possible.
- D. The following additional employee classifications will be used to determine eligibility for employee benefits:

1. Regular: An employee regularly scheduled to work a minimum of 32 hours in a work week. Employees in this classification are eligible for benefits offered by the City of Fort Smith.
  2. Part-time: An employee regularly scheduled to work only a portion of the work week and whose work will not exceed 32 hours per week on a regular basis. Employees in this classification are not eligible for benefits offered by the City of Fort Smith.
  3. Seasonal/temporary: An employee regularly scheduled to work in a seasonal/temporary position for a brief period of time. Employees in this classification are not eligible for benefits offered by the City of Fort Smith.
  4. Active: An employee working in a regular, part-time or seasonal/temporary classification.
  5. Inactive: A regular employee on a noncompensated absence approved by the director of human resources.
    - a. A noncompensated absence is defined as that period during which an employee is absent from work, with the approval of the director of human resources, and such employee has already exhausted his or her sick leave benefits, as well as vacation benefits, and injury leave benefits, if applicable. Such absence will also include any period of time when an employee is absent from work and directly drawing workers' compensation benefits; it will also mean that period of time when an employee is absent under a family and medical leave (see section VIII, supra). This term does not, however, include a qualified military leave of absence.
    - b. An employee on a noncompensated absence will not be eligible to earn the following employment benefits that would otherwise be available to a regular employee: vacation, sick leave and holiday pay during the noncompensated absence.
    - c. An employee on a noncompensated absence will continue to be eligible for group medical benefits during the noncompensated absence. However, the employee will personally be responsible for the timely payment to the city, through the director of human resources, that portion of the premium required to keep family or dependent coverage in effect during the noncompensated absence. Failure on the employee's part to make such timely payments will result in a lapse in coverage.
- E. Seniority is defined as the length of a regular employee's continuous period of service since the last date of hire with the City of Fort Smith.
- F. The term layoff will refer to a reduction in the city's work force due to a lack of work, a decrease in work, a reorganization, a change or reallocation in the appropriation of funds by the city administrator and the board of directors. The determination as to which classification or classifications will be reduced in personnel will be made by the city administrator and the board of directors. In the event of a layoff in any position classification in any department, the employee in that position classification in that department or program with the least seniority with the city will be laid off, provided that the remaining employees in the position classification have the ability to perform the remaining available work with normal efficiency without further training. This paragraph relating to the manner of removal of employees during a layoff in any position classification within a department is inapplicable where an entire position classification is abolished.
- G. In the event of reemployment of employees who have been laid off as set forth in paragraph F immediately above, such employees will be offered reemployment in the department from which laid off in reverse order of the layoff, provided the employee has the ability to perform the available work with normal efficiency and without further training.
- H. Relatives of employees may be hired under certain circumstances directly associated with hiring the most qualified applicant for any available job vacancy. However, no employees will hold a direct or indirect supervisory, administrative, or operational authority position over his or her relative, regardless of degree of relationship, and regardless of whether by consanguinity or operation of law, unless specifically approved by the city administrator. Familial relationships within the meaning of this policy means two employees (or an employee and a job applicant) in the relationship of husband, wife, father, mother, brother, sister, son, daughter, uncle, aunt, nephew, niece, grandparents, cousin, or any of those relationships as a result of marriage (in-law), or relative of a member of the City of Fort Smith's Board of Directors. See fire and police department policies for additional requirements.

An employee of the city cannot use his/her authority or position with the city to benefit or to disadvantage another employee in a familial relationship.

Employees are required to notify the Human Resources and Internal Audit Departments of (a) existing familial relationships; (b) any familial relationships that are created among employees (for example by the marriage of two employees).

Employees violating this policy will be held accountable through the selection and corrective action processes, with consequences ranging from non-selection to discipline up to and including termination.

I. Employment of any employee will terminate for any of the following reasons:

1. Resignation (Note: Two consecutive work days of unreported absence will be considered a resignation of employment unless such absences are excused on account of a cause deemed satisfactory by the director, human resources), or
2. Discharge, or
3. Death.

(Ord. No. 35-13, § 2, 8-20-2013; altered in 2019 recodification; Ord. No. 74-19, §§ 1, 2, 8-20-2019)



## Utilization of Females and Minorities Non-Uniformed Employees

	Total Females	Total Males	Total Minorities
<b>Directors, Superintendent &amp; Supervisors</b>	2.80%	8.60%	
<b>Officials &amp; Managers</b>	5.70%	8.60%	2.80%
<b>Technicians</b>	2.80%	2.80%	
<b>Office &amp; Clerical</b>	2.80%	5.70%	
<b>Skilled</b>	22.86	37.14%	17.14%

13 out of 35 employees or 37.14% of the Fort Smith Transit workforce are females. 23.33% of the total workforce are minorities.



# EEO Census / FST Comparison

## Fort Smith Transit EEO Race Totals

	White	Black or African American	American Indian and Alaska Native	Asian	Native Hawaiian and Other Pacific Islander	Hispanic or Latino	Two or More Races	Other
Total	27	7				1		

## Fort Smith Transit EEO Race Percentages

	White	Black or African American	American Indian and Alaska Native	Asian	Native Hawaiian and Other Pacific Islander	Hispanic or Latino	Two or More Races	Other
Total	77.14	23.33				2.86		

## Fort Smith Transit EEO Employees' Sex Totals

	White	Black or African American	American Indian and Alaska Native	Asian	Native Hawaiian and Other Pacific Islander	Hispanic or Latino	Two or More Races	Other
Female	10	3						
Male	17	4				1		
Total	27	7				1		

## Fort Smith Transit EEO Employees' Sex Percentages

	White	Black or African American	American Indian and Alaska Native	Asian	Native Hawaiian and Other Pacific Islander	Hispanic or Latino	Two or More Races	Other
Female	28.57	8.57						
Male	48.57	11.43				2.86		
Total	77.14	23.33				2.86		

### City of Fort Smith vs Fort Smith Transit EEO Race Totals

	White	Black or African American	American Indian and Alaska Native	Asian	Native Hawaiian and Other Pacific Islander	Hispanic or Latino	Two or More Races	Other
City of Fort Smith Total	52,874	7,378	939	5,104	0	17,270	5,446	105
Transit Total	27	7				1		
Target Category				TC		TC		

### City of Fort Smith vs Fort Smith Transit EEO Race Percentages

	White	Black or African American	American Indian and Alaska Native	Asian	Native Hawaiian and Other Pacific Islander	Hispanic or Latino	Two or More Races	Other
City of Fort Smith Total	59.3	8.3	1.1	5.7	0	19.4	6.1	0.1
Transit Total	77.14	23.33				2.86		
Target Category				TC		TC		

### City of Fort Smith vs Fort Smith Transit EEO Combine Sex Total and Percentages

	Female	Male	Total		Female	Male	Total
City of Fort Smith Total	45,140	43,976	89,116		50.7	49.3	100%
Transit Total	13	22	35		37.14	62.88	100%
Target Category	TC				TC		





## ACS DEMOGRAPHIC AND HOUSING ESTIMATES

Note: The table shown may have been modified by user selections. Some information may be missing.

### DATA NOTES

TABLE ID: DP05

SURVEY/PROGRAM: American Community Survey

VINTAGE: 2021

DATASET: ACSDP5Y2021

PRODUCT: ACS 5-Year Estimates Data Profiles

UNIVERSE: None

FTP URL: None

API URL: <https://api.census.gov/data/2021/acs/acs5/profile>

### USER SELECTIONS

GEOS: Fort Smith city, Arkansas

**EXCLUDED COLUMNS:** None

**APPLIED FILTERS:** None

**APPLIED SORTS:** None

### PIVOT & GROUPING

PIVOT COLUMNS: None

PIVOT MODE: Off

ROW GROUPS: None

VALUE COLUMNS: None

**WEB ADDRESS:** <https://data.census.gov/table?g=1600000US0524550&tid=ACSDP5Y2021.DP05>

**TABLE NOTES:** Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities, and towns and estimates of housing units for states and counties.

"Supporting documentation on code lists, subject definitions, data accuracy, and statistical testing can be found on the American Community Survey website in the Technical Documentation section.

Sample size and data quality measures (including coverage rates, allocation rates, and response rates) can be found on the American Community Survey website in the Methodology section."

Source: U.S. Census Bureau, 2017-2021 American Community Survey 5-Year Estimates

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see ACS Technical Documentation). The effect of nonsampling error is not represented in these tables.

	Fort Smith city, Arkansas			
Label	Estimate	Margin of Error	Percent	Percent Margin of Error
SEX AND AGE				
Total population	89,116	±51	89,116	(X)
Male	43,976	±589	49.3%	±0.7
Female	45,140	±580	50.7%	±0.7
Sex ratio (males per 100 females)	97.4	±2.5	(X)	(X)
Under 5 years	6,074	±359	6.8%	±0.4
5 to 9 years	5,739	±521	6.4%	±0.6
10 to 14 years	5,735	±502	6.4%	±0.6
15 to 19 years	5,697	±393	6.4%	±0.4
20 to 24 years	6,571	±418	7.4%	±0.5
25 to 34 years	12,415	±528	13.9%	±0.6
35 to 44 years	11,418	±544	12.8%	±0.6
45 to 54 years	10,405	±499	11.7%	±0.6
55 to 59 years	5,892	±558	6.6%	±0.6
60 to 64 years	5,757	±537	6.5%	±0.6
65 to 74 years	8,288	±436	9.3%	±0.5
75 to 84 years	3,315	±382	3.7%	±0.4
85 years and over	1,810	±321	2.0%	±0.4
Median age (years)	37.0	±0.7	(X)	(X)
Under 18 years	21,232	±543	23.8%	±0.6
16 years and over	70,560	±562	79.2%	±0.6
18 years and over	67,884	±545	76.2%	±0.6
21 years and over	64,708	±652	72.6%	±0.7
62 years and over	16,358	±761	18.4%	±0.9
65 years and over	13,413	±613	15.1%	±0.7
18 years and over	67,884	±545	67,884	(X)
Male	33,206	±497	48.9%	±0.6
Female	34,678	±538	51.1%	±0.6
Sex ratio (males per 100 females)	95.8	±2.5	(X)	(X)
65 years and over	13,413	±613	13,413	(X)
Male	5,958	±313	44.4%	±1.3
Female	7,455	±401	55.6%	±1.3
Sex ratio (males per 100 females)	79.9	±4.4	(X)	(X)
RACE				
Total population	89,116	±51	89,116	(X)
One race	81,564	±845	91.5%	±1.0
Two or more races	7,552	±851	8.5%	±1.0
One race	81,564	±845	91.5%	±1.0
White	56,125	±1,043	63.0%	±1.2
Black or African American	7,476	±467	8.4%	±0.5
American Indian and Alaska Native	1,061	±248	1.2%	±0.3
Cherokee tribal grouping	425	±156	0.5%	±0.2

Chippewa tribal grouping	0	±30	0.0%	±0.1
Navajo tribal grouping	0	±30	0.0%	±0.1
Sioux tribal grouping	0	±30	0.0%	±0.1
Asian	5,232	±414	5.9%	±0.5
Asian Indian	145	±138	0.2%	±0.2
Chinese	249	±185	0.3%	±0.2
Filipino	372	±186	0.4%	±0.2
Japanese	0	±30	0.0%	±0.1
Korean	141	±160	0.2%	±0.2
Vietnamese	1,763	±496	2.0%	±0.6
Other Asian	2,562	±457	2.9%	±0.5
Native Hawaiian and Other Pacific Islander				
Native Hawaiian	10	±22	0.0%	±0.1
Chamorro	0	±30	0.0%	±0.1
Samoan	0	±30	0.0%	±0.1
Other Pacific Islander	10	±22	0.0%	±0.1
Some other race	11,660	±1,148	13.1%	±1.3
Two or more races	7,552	±851	8.5%	±1.0
White and Black or African American				
White and American Indian and Alaska Native	1,754	±323	2.0%	±0.4
White and Asian	2,307	±336	2.6%	±0.4
White and Asian	716	±288	0.8%	±0.3
Black or African American and American Indian and Alaska Native				
Black or African American and American Indian and Alaska Native	344	±202	0.4%	±0.2
Race alone or in combination with one or more other races				
Total population	89,116	±51	89,116	(X)
White	63,149	±1,230	70.9%	±1.4
Black or African American	10,023	±228	11.2%	±0.3
American Indian and Alaska Native	4,240	±505	4.8%	±0.6
Asian	6,166	±371	6.9%	±0.4
Native Hawaiian and Other Pacific Islander				
Native Hawaiian and Other Pacific Islander	94	±83	0.1%	±0.1
Some other race	13,657	±934	15.3%	±1.0
HISPANIC OR LATINO AND RACE				
Total population	89,116	±51	89,116	(X)
Hispanic or Latino (of any race)	17,270	±537	19.4%	±0.6
Mexican	11,858	±1,010	13.3%	±1.1
Puerto Rican	299	±204	0.3%	±0.2
Cuban	140	±154	0.2%	±0.2
Other Hispanic or Latino	4,973	±926	5.6%	±1.0
Not Hispanic or Latino	71,846	±532	80.6%	±0.6
White alone	52,874	±694	59.3%	±0.8

Black or African American alone	7,378	±481	8.3%	±0.5
American Indian and Alaska Native alone	939	±231	1.1%	±0.3
Asian alone	5,104	±402	5.7%	±0.5
Native Hawaiian and Other Pacific Islander alone	0	±30	0.0%	±0.1
Some other race alone	105	±103	0.1%	±0.1
Two or more races	5,446	±563	6.1%	±0.6
Two races including Some other race	162	±111	0.2%	±0.1
Two races excluding Some other race, and Three or more races	5,284	±561	5.9%	±0.6
Total housing units	39,677	±519	(X)	(X)

CITIZEN, VOTING AGE POPULATION

Citizen, 18 and over population	62,554	±942	62,554	(X)
Male	30,356	±607	48.5%	±0.7
Female	32,198	±655	51.5%	±0.7