

ORDINANCE NO. 41-23

**ORDINANCE AMENDING ORDINANCE 85-11 AND APPROVING THE HUMAN
RESOURCES POLICIES FOR NON-UNIFORMED EMPLOYEES RELATING TO
CERTAIN POLICIES**

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

SECTION 1: Section XVIII, of the Human Resources Polices for Non-Uniformed Employees is amended to read as follows:

A. The City of Fort Smith is committed to:

1. Establishing and maintaining a safe, healthy working environment for all employees.
2. Reducing the possibility of accidental injury to persons or property.
3. Reducing absenteeism, tardiness, and indifferent job performance.
4. Ensuring public safety; and
5. Providing its customers with quality service.

B. Consistent with this commitment, the City has developed this policy regarding substance abuse. Substance abuse includes, but is not limited to, the use of illegal drugs and the abuse or misuse of legal drugs, medications, or alcohol.

C. It is the policy of the City to achieve and maintain a workplace free from substance abuse and to comply with all federal and state laws. The City does not intend to intrude upon the private lives of its employees. However, the City demands that its employees report to work, capable of not only performing their duties, but performing them safely at the highest level of their capability. Therefore, it is a condition of employment that an employee refrain from reporting to work or working with the presence of drugs or alcohol in the employee's body, except on the conditions stated herein or as stated in the rules and regulations of a particular Department within the City, if any such rules and regulations have been adopted by that Department. The safety of other employees and the public in general depends upon this high level of capability. The City recognizes that employee on-the-job and off-the-job substance abuse can have a major impact on the employee's capability to perform those duties. Thus, it is essential that all employees be free from the effects of substance abuse. As part of the policy set forth herein, employees and job applicants are notified of the existence of Ark. Code Ann. § 11-14-105 and of Rule 099.36 of the Arkansas Workers' Compensation Commission regarding the Voluntary Drug Free Workplace Program as existing and hereafter amended.

D. Scope. This Substance Abuse and Drug Free Workplace policy ("Policy") will apply to all employees and where applicable, applicants. The City maintains the right to modify or change this substance abuse policy at any time, without notice.

1. The City will enforce and administer this Policy in compliance with the Voluntary Program for Drug-Free Workplaces (Ark. Code Ann. § 11-14-101 *et seq.*) and Rule 099.36 of the Arkansas Workers' Compensation Commission.
2. It is the intent of the City that these policies and procedures, and those of any Department of the City which may have or adopt Departmental rules and/or regulations, be applicable and construed consistently with the requirements of any applicable state or federal law. To the extent, if any, that any such policies and procedures are unavoidably inconsistent with any such state or federal law as now existing or as may be enacted, adopted, or amended hereafter, that law controls. To the extent that such City policies and procedures do not unavoidably conflict with any applicable state or federal law, such policies and procedures apply.

E. Definitions.

1. The term "possession" when used in the policy relating to drugs, includes but not limited to trace amounts of drugs found in the body as evidenced by a "Positive" drug test.
2. The term "possession" when used in the policy relating to alcohol, includes but not limited to trace amounts of alcohol found in the body at a rate equal to or greater than .040 percent.
3. The term "legal drug" is defined as including any prescribed drug and over-the-counter drug which has been legally obtained and is being used solely for the purpose and in the manner for which it was prescribed or manufactured.
4. The term "illegal drug" is defined as follows: a drug, the synthetic or generic equivalent of a drug which is illegal under federal, state or local laws, including but not limited to marijuana, heroin hashish, cocaine, hallucinogens, depressants and stimulants not prescribed for current medical treatment by an accredited physician and any other drug-like substance, the use, possession or sale of which is unlawful. It also includes any legal drug not legally obtained which is being used in a manner or for a purpose other than as prescribed or labeled.
5. The phrase "aberrant/reckless behavior" is defined as: any act(s) performed or the omission of the performance of any act(s) by an employee which is reckless or abnormal and which indicate the employee is incapable of properly or safely performing job responsibilities and duties. Circumstances that could be indicators of such include, but are not limited to:
 - a. Apparent physical state of impairment;
 - b. Incoherent or otherwise apparently impaired mental state;
 - c. Marked changes in personal behavior; or
 - d. Deteriorating work performance or reckless conduct not readily attributable to other factors.
6. The term "on the job accident" is defined as an unplanned event that occurs in the course of work related activities that results in bodily injury to any person.
7. The term "on the job incident" is defined as an unplanned event that occurs in the course of work related activities that does not result in bodily injury, but may result in property damage or is deemed worthy of recording by City personnel, in their sole discretion.
8. The term "reasonable suspicion" is defined as a fact or facts that indicate a reason to conduct an investigation or assessment of an employee's fitness for duty, or to explore possible explanations for an employee's conduct, actions or appearance. The suspicion is based on observations of the individual employee. The determination as to whether reasonable suspicion exists shall be within the sole discretion of the City.

Among other things, reasonable suspicion shall include such facts and inferences as may be based upon: (1) Observable phenomena while at work, such as direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of a drug or alcohol; (2) Abnormal conduct or erratic behavior while at work, or a significant deterioration in work performance; (3) A report of drug or alcohol use, provided by a reliable and credible source; (4) Evidence that an individual has tampered with a drug or alcohol test during employment with the City; (5) Information that an employee has caused, contributed to or been involved in an on the job accident or on the job incident while at work; or (6) Evidence that an employee has used, possessed, sold, solicited or transferred drugs or used alcohol while working or while on the City's premises or while operating a City vehicle, machinery or equipment at any location.

Factors to be considered include but are not limited to the following:

Physical signs: Bloodshot eyes/dilated pupils; slurred speech; unsteady walk/uncoordinated movements; shakes or tremors; unexplained sweating or shivering; fidgeting/inability to sit still;

sleeping at work or difficulty staying awake; unusual body or breath odor; deterioration in appearance/grooming.

Behavioral signs: attendance problems—tardiness, pattern of absences or excessive absenteeism; decline in performance/productivity; acting withdrawn from others, secretive; money problems or borrowing or stealing money.

Psychological signs: inability to focus or concentrate; unexplained changes in personality or attitude; sudden mood changes, irritability, angry outbursts or inappropriate laughing; unexplained fear or paranoia.

9. Medical Marijuana Card means a Registry Identification Card as defined under the Arkansas Medical Marijuana Act (AMMA) or its equivalent issued under the laws of any other state.
10. Medical Review Officer (MRO): a licensed Physician, Pharmacist, Pharmacologist or similarly qualified individual employed with or contracted with the City of Fort Smith who: (1) has knowledge of substance abuse disorders, laboratory testing procedures, and chain of custody collection procedures; (2) verifies positive, confirmed test results; and (3) has the necessary medical training to interpret and evaluate an employee's positive test result in relation to the employee's medical history or any other relevant biomedical information.
11. Verified Positive Test Result: a positive initial drug test which has been verified by a confirmation test and a Medical Review Officer, as set forth in Section XVIII.J or such subsection of these Policies as may contain any such definition.
12. Under the influence has the meaning as set forth in the Arkansas Medical Marijuana Amendment.

F. General Prohibitions.

1. In order to attain the afore-described objective, the following prohibitions of activities apply to all employees:
 - a. The use or possession of illegal drugs at any time or place;
 - b. The use, consumption or possession of alcohol on City property or during working hours;
 - c. The sale, distribution, purchase or transfer, or attempt to do the same, of illegal drugs at any time or place;
 - d. No employee or applicant is allowed to be under the influence of legal drugs during work hours to the extent it negatively affects the employee's performance.
2. Any illegal drugs found in the possession of a City employee while on the job or on City property may subject the employee to criminal prosecution.
3. At specified City-sponsored events, where possession or use of alcoholic beverages is approved by the City Administrator or a City official, the possession or use of alcoholic beverages does not constitute a violation of City policy. If alcohol is served at a City-sponsored event, employees must conduct themselves in such a manner so that they do not represent a danger or embarrassment to themselves, to other employees, or to the general public.
4. Current abuse of drugs is not a protected disability under the Americans with Disabilities Act (ADA).

G. Medical Marijuana.

Employees shall not possess, smoke or otherwise ingest medical marijuana while on City premises or while on duty or be at work while under the influence of medical marijuana which was smoked, ingested, or otherwise used while not at work. The use may impair the employee's ability to safely and/or satisfactorily

perform any job-related function, resulting in a direct threat to the employee or others or failure to perform job duties properly or adequately.

You are notified that the Arkansas Medical Marijuana Amendment (AMMA) is subject to Act 593 of 2017 and does not require an employer to accommodate an employee working under the influence of marijuana.

Furthermore, Federal law governs all personnel governed by Department of Transportation (DOT) laws and regulations. Employees required by the City to have a Commercial Driver's License (CDL) and/or Commercial Learners Permit (CLP) also are subject to DOT laws and regulations. This rule applies even if the job being performed by the employee might not require a CDL under DOT laws and regulations or State of Arkansas but which the City has chosen to adopt concerning a particular job or task. Federal law does not recognize medical marijuana. The City may terminate an employee who falls under the guidelines of the DOT for a Verified Positive Test Result.

Arkansas State law governs all other City employees (Non-DOT). Employees with a Medical Marijuana Card cannot work in a DOT and/or safety sensitive or security sensitive position. For positions designated as Safety and/or Security Sensitive, a Verified Positive Test Result constitutes a violation of this policy, and appropriate action will be taken in accordance with City of Fort Smith Substance Abuse and Drug Free Workplace policy.

Safety-Sensitive Position/Job: (1) any position involving a safety sensitive function pursuant to federal regulations governing drug and alcohol testing adopted by the United States Department of Transportation or any other rules, guidelines, or regulations adopted by any other federal or state agency; (2) any position designated in writing by an employer as a safety sensitive position in which a person performing the position while under the influence of marijuana may constitute a threat to health or safety, including without limitation a position: (A) that requires any of the following activities: carrying a firearm; performing life-threatening procedures; working with confidential information or documents pertaining to criminal investigations; or working with hazardous or flammable materials, controlled substances, food, or medicine; or (B) in which a lapse of attention could result in injury, illness, or death, including without limitation a position that includes the operating, repairing, maintaining, or monitoring of heavy equipment, machinery, aircraft, motorized watercraft, or motor vehicles as part of the job duties. These positions include, but are not limited to, the following:

- Law enforcement officers.
- Positions requiring the operation of a motor vehicle or in which there is the potential to operate a motor vehicle.
- Fire Department personnel who directly participate in fire-fighting activities or training, Administrative Assistant & Accounting Technician.
- Mechanics, Welders, Sheet Metal workers who work on vehicles.
- Lifeguards, Aquatic Attraction Monitors, or other Poolside Attendants even if seasonally employed.
- Any employee whose job task is working with food.
- Operators of heavy equipment, including front-end loaders, trucks, and riding lawn mowers, or other similar equipment, where the equipment is used around individuals, alongside the public rights of way or on public roads even if seasonally employed.
- Water Treatment Operators and Waste Water Treatment Operators.
- Any position, which the City hereafter deems to be safety-sensitive or which are created in the future that are deemed to be safety-sensitive.
- Any job title used in these policies may be re-designated or re-named from time to time. It is intended these policies apply to re-designated positions or to their equivalents.

The City of Fort Smith considers the following positions to be security sensitive:

A Security-Sensitive position includes any:

- Police officer, Police Telecommunicator (Dispatcher), Animal Services Officer & other police department employees, including clerical workers having access to information concerning ongoing criminal investigations and criminal cases, which information could, if revealed, compromise, hinder or prejudice the investigation or prosecution of the case. The City also

considers Law Enforcement Officers as holding security sensitive positions by reason of their duty to enforce laws pertaining to the use of illegal substances.

- Any employee engaged in work related to criminal prosecution at the Fort Smith District Court, including Court Clerks, Bailiffs, Legal Assistants and Prosecuting Attorneys.
- Positions requiring Arkansas Crime Information Center (ACIC) certification.
- Information Technology employees.
- Any positions which the City hereafter deems to be security-sensitive or which are created in the future that are deemed to be security-sensitive.
- Any job title used in these policies may be re-designated or re-named from time to time. It is intended these policies apply to re-designated positions or to their equivalents.

An employee has a duty to report any arrest or non-arrest citation or criminal charge by any law enforcement agency in any location or jurisdiction involving alcohol or drugs, as defined in this policy, to their supervisor within (5) five calendar days of the arrest. The Supervisor in turn must immediately report it to Human Resources.

An employee whose job is classified as safety and/or security sensitive for purposes of this policy must disclose and provide a copy of his or her Medical Marijuana Card immediately to the Human Resources Department, for placement in the employee's personnel file. The employee need not disclose the reason why he or she was issued a Medical Marijuana Card or anything about his or her medical condition, unless required for other reasons. If a new or replacement Medical Marijuana Card is issued, the employee must provide it to the Human Resources Department as well. Failure to disclose that he/she has been issued a Medical Marijuana Card is a basis for employee discipline up to and including termination.

Applicants (internal or external) for safety and/or security sensitive positions who have been issued a Medical Marijuana Card must disclose their status only if they receive a conditional offer of employment. No applicant engaged in the current use of marijuana shall be employed in a safety and/or security sensitive position. Current use of marijuana is presumed upon a Verified Positive Test Result.

An incumbent employee within safety and/or security sensitive positions may be excluded from employment on the basis of a Verified Positive Test Result. No applicant engaged in the current use of marijuana shall be employed in a safety or security sensitive position. Current use of marijuana is presumed upon a Verified Positive Test Result.

If an employee is suspected of being under the influence of marijuana this should be reported immediately to their supervisor and Human Resources. If the employee is driving or working around machinery or heavy equipment or is in any other type of safety sensitive or security sensitive job, or is acting in a way that appears to be a safety concern for the employee or others, a supervisor, managers, or Human Resources Staff may immediately remove the employee from the work area.

H. When Testing Will Occur.

1. The City will conduct drug testing under the following circumstances:
 - a. As part of the selection process for employment for safety and/or security sensitive positions or positions requiring a CDL after a conditional offer has been made. This applies to both internal and external applicants except for current employees already in a safety/security sensitive position or a position requiring a CDL.
 - b. Suspected use, possession or sale of illegal drugs, based on reasonable suspicion.
 - c. Suspected abuse or misuse of legal drugs or medication, based on reasonable suspicion.
 - d. If an employee is involved in a vehicle accident while driving a vehicle owned by the City or at any time in any vehicle in which the employee was performing employment services for

the City in which any person is physically injured or where one or more vehicles must be towed from the scene, the driver of the vehicle will be screened for drugs.

- e. All employees who are involved in an on the job accident resulting in serious bodily injury to any person will be tested for drugs and/or alcohol as soon as possible after the accident. Any employee who causes or contributes to an on the job incident resulting in serious property damage will be tested as soon as practical after the incident. The determination as to whether an injury or property damage is "serious" is in the sole discretion of the Department and City of Fort Smith. The intent of this section is to allow for testing to occur following any event in which the bodily injury or property damage is more than a minor injury or minimal property damage.
 - f. If a supervisor reasonably suspects an employee to be under the influence at the time of the on the job accident or on the job incident, the supervisor will notify Human Resources immediately before taking action in testing the employee.
 - g. As required by the Department of Transportation (DOT) or by City policies adopting DOT laws and regulations.
 - h. Employees in safety sensitive and security sensitive positions shall be subject to random drug testing.
 - i. All safety and/or security sensitive positions will be tested on a routine basis.
 - j. If a COFS employee causes or contributes to an on the job accident or on the job incident by failing to follow safety rules, instructions, and customary procedures, the employee will be screened for drugs.
2. The City will conduct alcohol testing under the following circumstances:
- a. Reasonable suspicion that the employee is under the influence of alcohol at work;
 - b. If an employee is involved in a vehicle accident where one or more vehicles must be towed from the scene, the driver of the vehicle will be screened for alcohol;
 - (i) If a supervisor reasonably suspects an employee to be under the influence at the time of an on the job accident or on the job incident, the supervisor will notify Human Resources immediately before taking action in testing the employee.
 - c. As required by the Department of Transportation (DOT) or by City policies adopting DOT laws and regulations.
 - d. If a COFS employee causes or contributes to an on the job accident or on the job incident by failing to follow safety rules, instructions, and customary procedures, the employee will be screened for alcohol.
3. Employees who are screened for drugs and/or alcohol following an on the job accident or on the job incident will return to work following testing, unless there is reasonable suspicion the employee was under the influence at the time of the on the job incident or on the job accident. If results come back with a positive result for impairment, the employee will be removed from the job site immediately.
4. Employees who are screened for drugs and alcohol due to reasonable suspicion will remain off work until Human Resources receives the results. Employees will be on administrative leave

during this time. If the alcohol testing produces a positive result or if the drug testing results in a Verified Positive Test Result, the employee will not receive pay for the time on administrative leave.

I. Consent to Testing. Each employee/applicant will be required to sign a consent form as part of the testing procedure. An employee who refuses to submit to drug and/or alcohol testing requested under the terms of this policy will be subject to discharge and denial of reemployment opportunities. Any applicant who refuses to submit to a drug test under the terms of this policy will not be considered for employment. If an injured employee refuses to submit to a test for drugs or alcohol, the employee may be precluded from workers' compensation medical and indemnity benefits.

J. Testing Procedure.

1. Samples and Testing Permitted. Specimens to be tested for a drug and/or alcohol test not involving injury to the employee will be one or more of blood, urine and/or hair follicles in post-accident testing, routine fitness-for-duty testing, reasonable suspicion testing, random testing, and follow-up testing. In the event of an accident causing injury to the employee and requiring medical care, either immediately after the accident or in other post-accident care, a blood test or screen of the employee will be obtained by medical personnel and the City is entitled to obtain the results of that blood test or screen.
2. Drugs.
 - a. Urinalysis is a method approved for testing for the presence of drugs. The urine sample will be taken at an office designated by the City under controlled conditions. The specimen will then be tested at a laboratory chosen by the City for a screening test.
 - b. The laboratory will retain for a period of one (1) year a portion of all specimens which test positive. Any employee who tests positive may have a test performed upon the retained portion of the specimen at the employee's expense.
 - c. Blood testing is a method approved for testing for the presence of drugs (1) following an accident causing injury to any person requiring medical care or (2) if the employee is unable to provide a urine sample.
 - d. Hair follicle testing is a method approved for testing for the presence of drugs. The hair sample will be taken at an office designated by the City under controlled conditions. The specimen will then be tested at a laboratory chosen by the City for a screening test.
 - e. In the event of a positive initial drug test, there shall be conducted a confirmation test to verify the positive initial drug test. Within five (5) working days after written notice to the employee or applicant of the confirmation test verifying the initial test, the employee or applicant may contest or explain the result to the Medical Review Officer, who will conduct or make a good faith effort to conduct a medical interview with the employee or applicant to determine any relevant biomedical factors for the positive results. At such interview, the employee or applicant may report the use of prescription or nonprescription medications to the Medical Review Officer. Information provided by the employee or applicant to the Medical Review Officer shall be subject to the confidentiality provisions set forth herein. The employee or applicant has a right to consult with the Medical Review Officer for technical information regarding prescription or nonprescription medication. The Medical Review Officer will review all medical records made available by the employee or applicant when a positive initial test and positive confirmation test could have resulted from legally prescribed medication. If an employee's or applicant's explanation or challenge is unsatisfactory to the Medical Review Officer and if it is the opinion of the Medical Review Officer that there is no justification for the positive result, such result will then be considered a Verified Positive Test Result. If the MRO determines that the employee or applicant had a valid explanation for the positive test result, i.e., the employee or applicant was taking a legal drug, the MRO will consider the test result as a negative. The City nevertheless retains the rights to ensure that the employee or applicant is capable of performing the essential functions of the position (with or without an

accommodation) and that the employee's or applicant's use of the drug or medication does not constitute a direct threat of harm to the employees or others.

3. Alcohol. Breath, saliva and/or blood serum testing will be the methods employed for testing for the presence of alcohol. A saliva or breath specimen will first be obtained from the employee or applicant, and a test will be performed. If the results are positive, the individual will be required to provide a blood serum specimen for a confirmation test. The results of the confirmation test are controlling.
4. Drug and/or alcohol testing performed under this policy shall be conducted by the contracted laboratory in such a manner to detect the presence of the following drugs and/or alcohol:

1.	Amphetamines	2.	Barbiturates
3.	Benzodiazepines	4.	Cannabinoids
5.	Methadone	6.	Methaqualone
7.	Opiates	8.	Phencyclidine
9.	Cocaine	10.	Propoxyphene
11	Alcohol		

K. Test Results for Drugs/Alcohol.

1. Drugs.

- a. A verified positive test result occurs as set forth as above.
- b. A negative test result occurs when the initial screening or the confirmation test indicates the absence of the drug(s) for which test was conducted, or the MRO determines that the employee has a valid explanation for the positive test result, as otherwise set forth herein.
- c. A tested employee or applicant may contest a Verified Positive Test Result pursuant to rules adopted by the Workers' Health and Safety Division of the Workers' Compensation Commission. It shall be the tested employee's or applicant's responsibility to notify the testing laboratory of any administrative or civil action brought pursuant to Ark. Code Ann. § 11-14-105.

2. Alcohol.

- a. A positive test result occurs when the breath/saliva and the blood serum test indicate the presence of alcohol equal to or greater than .040 percent. A positive confirmation test result is a violation of City policy.
- b. A negative test result occurs when either the breath/saliva test or the blood serum test indicates the presence of alcohol at less than .040 percent.

L. Confidentiality. Information regarding test results will be treated as confidential and will be maintained in a separate file concerning the employee. In that regard, the City will allow limited access and provide it to persons within the City with the need to know and to the employee who was tested, if requested.

M. Potential Action for Violation of this Policy.

1. Applicants for CDL positions. Upon a Verified Positive Test Result, the individual will not receive any further employment consideration.
2. Sale, distribution, purchase or transfer, or attempting to do the same, of illegal drugs. The individual will be subject to immediate discharge and denial of reemployment opportunities.
3. Observed use or possession of illegal drugs while on the job or on City property. This will result in immediate suspension without pay pending the results of further investigation. Upon conclusion of the investigation, if the investigation, by a Verified Positive Test Result or otherwise, establishes

that the employee violated the provisions of this policy, the employee may be discharged and denied reemployment opportunities. Testing may occur as part of the investigation.

4. Suspected use, consumption or possession of illegal drugs/alcohol on the premises or during work hours, aberrant/reckless behavior which the City suspects is the result of alcohol or drug use, reasonable suspicion as set out in this policy, selection for illegal drug testing, or involvement in an on-the-job accident. This will result in immediate Administrative leave. The employee may be tested. If so tested and the result is positive under the procedures set forth herein, the employee may be discharged and denied reemployment opportunities. If the result is negative, the employee will be returned to work.
5. Failure to participate in a drug/alcohol screening when directed to do so will result in termination. Any applicant failing to participate in a drug/alcohol screening when directed to do so will result in that person not being considered for the position.
6. Tampering with, attempting to tamper with, adulterating or otherwise interfering with test samples and process will result in termination. Any applicant tampering with, attempting to tamper with, adulterating or otherwise interfering with test samples and process will result in not being considered for the position.
7. Employee violation of this policy can lead to disciplinary action up to and including termination.

N. Prescription Drugs.

1. Known taking of prescription drugs. If an employee is undergoing medical treatment, which includes the use of any drug or medication which, in consultation with their Healthcare provider, has the potential to affect the employee's ability to perform job-related functions, the employee shall inform his/her supervisor and Human Resources department of such and provide a copy of that prescription to the Human Resources Department. The City reserves the right in its sole discretion to remove such employee from the job if the employee is unable to perform the essential functions of the position (with or without a reasonable accommodation) or refer the employee to a physician to determine if the use of the medication creates a potential to harm the employee and/or others. If so determined, the employee will be required to remain off the job until the employee is able to perform the essential functions of the position with or without reasonable accommodations or the potential for harm is eliminated or reduced, at the determination of the City.
2. If an employee fails to notify his/her supervisor of the use of any drug or medication referred to in Section N (1) above, the employee is subject to disciplinary action up to and including termination.

O. Educational Material. Educational information concerning the dangers of substance abuse, as well as the names/phone numbers of local hospitals, medical clinics, and other social service agencies which offer substance abuse counseling and rehabilitation programs are available at the Human Resource department. Anyone may come by and pick up literature/pamphlets, or, in the alternative, may obtain information by calling the office. All requests will be in confidence.

P. Employee discovery of drugs/alcohol or observation of person suspected of being unfit for duty.

1. If an employee discovers suspected illegal drugs or alcoholic beverages on City property or on the job, the employee will immediately notify his/her immediate supervisor and the supervisor will notify the Human Resources Director immediately. The employee should not touch or disturb the suspected item(s).
2. If an employee observes another employee using, possessing, distributing, transferring or selling illegal drugs on or off City property or on the job, or observes another employee consuming or possessing alcohol on City property or while on the job, or observes another employee exhibiting aberrant/reckless behavior, the employee will immediately notify his/her immediate supervisor, who will immediately notify the Human Resources Director.

Q. Closing Statements About Policy.

1. Nothing in this policy should be interpreted as constituting a waiver of management's responsibility to maintain discipline, or the right to take disciplinary measures in the case of poor performance or misconduct. In addition, the City has the right to carry out reasonable inspections, based on reasonable suspicion, of individuals and personal effects, including, but not limited to, lockers, desks, lunch boxes, purses, and private vehicles, if parked on the City premises.
2. Any City employee who is a uniformed employee of the Police Department or Fire Department is also subject to the policies, procedures, rules, and/or regulations adopted by that Department. In the event of an inconsistency or conflict between the Employee Handbook and the policies, procedures, rules, or regulations of the Police, Transit or Fire Department, that Department's policies, procedures, rules, or regulations shall control. If a department regulation does not conflict with these policies, then these policies apply as well.
3. If an employee is interested in an Employee Assistance Program (EAP) they may contact the Human Resources Department for information regarding providers.
4. Applicants and employees are advised of the existence of the statute codified as Ark. Code Ann. § 11-14-105.
5. All employees and job applicants have the right to consult with a medical review officer for technical information regarding prescription and nonprescription medication.

SECTION 2: The implementation date of this Ordinance amending Ordinance 85-11 and approving the Human Resources policies for non-uniformed employees will be 60 days following issuance of a written policy statement to all employees as required by Arkansas Code A.C.A. Sec. 11-14-105.

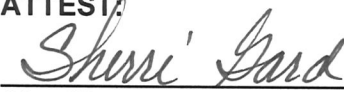
This Ordinance adopted this 18th day of April, 2023.

APPROVED:




Vice-Mayor Jared Rego

ATTEST:



City Clerk

Approved as to Form



No Publication Required