

**CITY OF DYER, ARKANSAS**

**ORDINANCE NO. 2012-2-28-1**

AN ORDINANCE ADOPTING THE POLICIES AND PROCEDURES FOR EMPLOYEES OF THE CITY OF DYER, ARKANSAS; REPEALING PRIOR POLICIES AND PROCEDURES, AND DECLARING AN EMERGENCY.

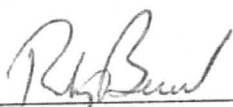
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DYER, ARKANSAS, AS FOLLOWS:

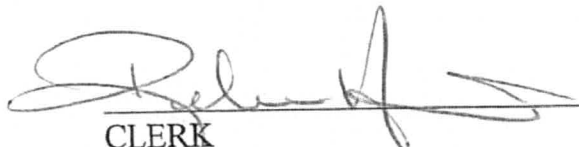
**SECTION 1:** The attached "Employment Policies and Procedures" dated February 27, 2012, is adopted by the City Council of Dyer, Arkansas, to govern employment practices of the City.

**SECTION 2:** All prior employment policies and procedures that may conflict with the attached policies and procedures are hereby repealed.

**SECTION 3:** This ordinance is deemed important for the immediate protection and preservation of the public peace, health, safety, and welfare of the citizens of Dyer, Arkansas, because these policies shall be most effectively implemented at the beginning of the calendar year. Therefore an emergency is hereby declared and this ordinance shall be and take effect and be in full force after its passage, approval, and publication.

PASSED AND APPROVED THIS 27<sup>th</sup> DAY OF FEBRUARY, 2012.

  
\_\_\_\_\_  
MAYOR

  
\_\_\_\_\_  
CLERK

City of Dyer  
State of Arkansas

**Employment  
Policies and Procedures**

Effective:  
February 27, 2012

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# ARTICLE I

## GENERAL PROVISIONS AND PROCEDURES

### SECTION 1 HIRING, ATTENDANCE AND TERMINATION PROCEDURES:

- 1.01 All persons seeking City employment MUST fill out and sign an application for position form which must be filed in the Mayor's office. All new hires must be approved by the Mayor, subject to a two-thirds (2/3) override by the City Council. Such override by the City Council must be made within forty-five (45) days of the new hire.
- 1.02 All new employees MUST report to the Mayor's office prior to the first day of work to fill out the necessary personnel and withholding forms including but not limited to W-4 and I-9 forms.
- 1.03 Minimum age as a City Employee, with the exception of a law enforcement employee, shall be eighteen (18) years of age. Minimum age for a law enforcement employee shall be twenty-one (21) years of age. Sixteen (16) years shall be the minimum age of temporary or seasonal employment, providing the employment complies with the federal and state law.
- 1.04 DAILY ATTENDANCE and promptness is vital to efficient operation of City business. Attendance records will be maintained for all employees. Should poor attendance occur to a point indicating a pattern, disciplinary action will be taken at the discretion of the department supervisor or Mayor.
- 1.05 Any individual who is offered employment by the City of Dyer must submit to a drug screen at a designated location under procedures that will be provided to the individual. The City will pay for the cost of the drug screen. The offer of employment is conditional upon the individual receiving negative test results. Any individual accepting employment by the City agrees to and is subject to random testing at the request and discretion of the Mayor subject to any applicable laws or ordinances.
- 1.06 The benefits, responsibilities, procedures and policies described herein are subject to change, modification and revision at the sole discretion of the City Council to meet the needs of the City and the workforce. This policy does not grant an entitlement or an expectation of employment or continued employment. This policy is not and does not create property interests or a contract, express or implied, guaranteeing employment or employment for any specific duration. All City employees are and will remain employees at-will. The employee or the City may terminate the employment relationship at any time, for any reason, with or without cause or notice. The City requests that employees provide the City with the professional courtesy of a two week notice prior to terminating their employment.

## SECTION 2 RECORDS, FORMS, REPORTS:

- 2.01 It is the responsibility of each employee to report immediately any change or address or phone number to the department supervisor. This information and any other changes (wage rate, expenses, job title, injuries incurred on the job, training courses completed, etc.) shall be reported by the departmental supervisor and submitted to the Mayor's office no later than Monday morning following such a change.
- 2.02 The City shall maintain a personnel history file of all employees. The file shall include, but not necessarily be limited to, employee's application, name, address, training and experience, class title, salary and any changes in any of these items. Medical data shall be maintained in a separate file other than the personnel history file of an employee.
- 2.03 Time and attendance records will be kept on a daily basis for all employees. Such records will be maintained by the departmental supervisor and will reflect hours worked, holidays, sick leave, funeral leave, annual leave, military leave and leave without pay. This information will be submitted on a monthly basis to the Mayor's office.

## SECTION 3 NON-DISCRIMINATION IN EMPLOYMENT:

- 3.01 It is the policy of the City to comply with the nondiscriminatory provisions of all state and federal regulations including the Arkansas Civil Rights Act of 1993. The City shall not, because of the race, sex, religious creed, color, national origin, ancestry or disability of any person, refuse to appoint or promote him/her or suspend, demote, or discharge him/her from a City position, or discriminate against him/her in compensation or in terms, condition, and privileges of employment nor refuse to hear any appeal based on alleged discrimination by an applicant or any employee regardless of status.

## SECTION 4 SEVERABILITY:

- 4.01 If any provision of these policies and procedures, or the application thereof to any person or circumstances, is held invalid the remainder of these policies and procedures, or the application of such provision to other persons or circumstances, shall not be affected thereby.

## SECTION 5 CONFLICT WITH FEDERAL AND STATE REQUIREMENTS:

- 5.01 Any provision of these policies and procedures which conflicts or is inconsistent with federal and state rules, regulations or standards governing the grant of federal funds or state assistance to a department or program shall not be applicable to such department or program.



## ARTICLE II TYPES OF APPOINTMENT

### SECTION 1 FULL-TIME:

- 1.01 A full-time position is a regular City position requiring a minimum of forty (40) hours per week, unless otherwise required by City policy or state or federal law. Full-time positions may be eligible for benefits.

### SECTION 2 PART-TIME:

- 2.01 A part-time position is a regular City position which requires less than thirty-two (32) hours per week. Part-time employees shall not be eligible for benefits unless otherwise required by state or federal law.

### SECTION 3 EXTRA HELP:

- 3.01 An extra help position is a City position which requires only a few work hours per week or month. An employee appointed to an extra help position usually works on a call-in basis. Extra help employees shall not be eligible for benefits unless otherwise required by state or federal law.

### SECTION 4 SEASONAL:

- 4.01 A seasonal position is a City position created in response to a special need which cannot be handled by full-time, part-time or extra help employees. The duration of a seasonal position may last up to six (6) months. Seasonal employees may or may not receive the same benefits and privileges of full-time employees depending on the number of days worked per week.

### SECTION 5 CONTRACT:

- 5.01 The City may from time to time, in accordance with federal and state law, contract with an independent contractor. In those circumstances such an appointment is bound solely by any contracted for terms and no independent contractor shall be deemed or construed to be an employee or entitled to any of the employee benefits set forth herein.

## ARTICLE III CODE OF ETHICS

### SECTION 1 GENERAL CONDUCT AND REQUIREMENTS:

- 1.01 Dyer expects all of its employees to conduct themselves on and off the job in the best interest of the City. As public employees your attitude and actions are reflected back to the City and City elected officials. We are a public agency and our main interest is in serving the people by doing our job as accurately and efficiently as possible.
- 1.02 The maintenance of high standards of honesty, integrity, impartiality and conduct by City employees is essential to assure the proper performance of City business and the maintenance of confidence by citizens in their City government. Employees shall conduct themselves in such a manner that the work of the City is effectively accomplished. Employees shall be courteous, considerate and prompt in dealing with and serving the public and shall conduct themselves in a manner that will not bring discredit or embarrassment to the City.
- 1.03 Employees shall observe the applicable laws and regulations governing participation in political activities and conflict of interest and shall avoid any discrimination because of race, color, religious creed, national origin, sex or disability, and shall economically utilize, protect and conserve property of the City entrusted to them, and conduct all their official activities in a manner which is above reproach and free from any discretions or acceptance of gratuities or favors which cast doubt or suspicion upon themselves or the City agency which employs them.

### SECTION 2 SPECIFIC CONDUCT AND RESPONSIBILITIES:

- 2.01 Official positions shall not be used by City employees for personal gain. Public influence and confidential or "inside" information must never be turned to personal advantage.
- 2.02 Conflict of interest laws must be scrupulously observed. The employees must disclose his/her interest, if any, in the official records of the City and shall not participate in or vote for any contract, sale purchase, or service in which he/she has an interest.
- 2.03 The employee shall not do any work in a private capacity which may be construed by the public to be an official act.
- 2.04 The employee shall not accept or solicit, directly or indirectly, anything of economic value as a gift, gratuity, favor, entertainment, or loan which is or may appear to be designed to in any manner influence official conduct, particularly from a person who is seeking to obtain a contract or other business or financial arrangements with the City or who has interests that might be substantially affected by the performance or nonperformance of the employee's duty. This provision does not prohibit acceptance by an employee of food and refreshments of insignificant value on infrequent occasions in the ordinary course of a meeting, conference or other occasion where the employee is

properly in attendance, nor the solicitation or acceptance by an employee of loans from banks or other financial institutions on customary terms to finance proper and usual activities of the employee, nor the acceptance of unsolicited advertising or promotional material such as pens, pencils, calendars, and other items of nominal intrinsic value.

- 2.05 The employee shall not directly or indirectly use or allow the use of City property of any kind, including property leased to the City, for other than approved official activities. An employee has a positive duty to protect and conserve City property entrusted or issued to him/her. Any City employee who is assigned a City vehicle and has permission from his/her immediate supervisor to drive said vehicle to and from his/her residence, shall not at any time use said vehicle for any personal use or personal business or any business other than City business. Use of said vehicle for any business other than City business shall constitute grounds for immediate dismissal. City telephones are for City business and personal calls should be held to a minimum. Personal long distance calls should not be allowed in most cases. Or at least allowed only with approval of the employee's supervisor.
- 2.06 The employee must never permit him/herself to be placed under any kind of personal obligation which could lead any person to expect official favors.
- 2.07 The employee's official acts must reflect impartiality. His/her decisions and actions must be determined by impersonal considerations, free from any taint of favoritism, prejudice, personal ambition or partisan demands.
- 2.08 The employee shall not engage in outside or other employment or other outside activities which are not compatible with the full and proper discharge of the duties and responsibilities of his/her City employment, or which tends to impair his/her capacity to perform his/her City duties and responsibilities in an acceptable manner.

### SECTION 3 DISCIPLINARY ACTION OR DISMISSAL:

- 3.01 The right of the Mayor to establish reasonable policies and procedures regarding working practices and personal conduct of employees while on duty is recognized. Apart from specific policies and procedures, the obligation of each employee to conduct him/herself in relation to his employment, to his fellow employees and the public in a manner which respects the persons and property of others is recognized.
- 3.02 If an employee engages in misconduct, he/she may be disciplined by oral reprimand, written warning, disciplinary layoff with or without pay or termination of employment. The severity of the discipline will be determined by the Mayor, taking into consideration the circumstances in the cases and the seriousness of the offense.
- 3.03 Disciplinary action. The following types of discipline may be imposed for performance problems:



- a. Oral Warning. When an employee's performance falls below the desirable standard, the Mayor or supervisor may point out the deficiencies at the time they are observed and inform the employee of the acceptable level of performance.
- b. Written Warning. A written warning may be issued after an employee has received an oral warning(s) that his/her performance is below the acceptable level of performance and the employee's performance has continued to be below the acceptable level of performance. A written warning may also be issued when an employee has violated a rule, regulation or standard of conduct that is consistent with other disciplinary actions, considered to be too serious for an oral warning.
- c. Suspension. When an employee's ongoing performance is below the acceptable level of performance or if an employee engages in conduct deserving of severe disciplinary action, the employee may be suspended for a period of one (1) to a maximum of thirty (30) days.
- d. Termination. The Mayor may terminate an employee at anytime with or without cause; however the Mayor's decision may be terminated or overturned by a two-thirds (2/3) vote of the City Council if appealed to the Council within 10 days of the adverse employment decision. An employee seeking such appeal, shall submit to the City Clerk a written request within the ten (10) day period. Any appealed employment action will be placed on the agenda and heard at the next regularly scheduled or special City Council meeting. The requirements of this subsection shall be liberally construed so as to do substantial justice to the terminated employee.

#### SECTION 4 PROHIBITED AND UNLAWFUL HARASSMENT:

- 4.01 The City of Dyer expressly prohibits its officials or employees from engaging in any form of unlawful harassment of employees based on race, religious creed, color, gender, national origin, age, disability or status as a veteran or special disabled veteran.
- 4.02 Harassment is any annoying, persistent act or actions that single out an employee, over that employee's objection to his/her detriment, because of race, sex, religious creed, national origin, age or disability. Harassment may include, but not be limited to the following actions:
  - a. Verbal abuse or ridicule;
  - b. Interference with any employee's work;
  - c. Displaying or distributing sexually offensive, racist or other derogatory materials;
  - d. Discriminating against any employee in work assignments or job related training because of one of the above-referenced bases;
  - e. Intentional physical contact with either gender, specific portions of a person's body or that person's private parts;
  - f. Making offensive sexual, racial or other derogatory hints or impressions;
  - g. Demanding favors (sexual or otherwise), explicitly, as a condition of employment, promotion, transfer or any other terms or conditions of employment.



4.03 It is every employee's and official's responsibility to ensure that his/her conduct does not include or imply harassment in any form. If, however, harassment or suspected harassment has or is taking place:

- a. An employee should report harassment or suspected harassment immediately to the department head. If the department head is the alleged harasser, then the complaint should be reported to the supervisor in the chain of command. This complaint should be made in writing.
- b. Anytime an employee has knowledge of harassment he/she shall inform the department head in writing.
- c. Each complaint shall be fully investigated and a determination of the facts and an appropriate response will be made on a case-by-case basis.

4.04 The City of Dyer will not tolerate harassment or any form of retaliation against an employee who has either instigated or cooperated in the investigation of alleged harassment. Disciplinary action will be taken against offenders as outlined in Article III, Section 3 above.

## ARTICLE IV TERMINATION AND DISCIPLINARY POLICIES

### SECTION 1 LAY OFFS:

- 1.01 A departmental supervisor may layoff an employee whenever it is necessary by reason of shortage of funds or work or when the department is reorganized and the need for the position is eliminated, or any other reason deemed appropriate by the department supervisor.
- 1.02 When a layoff is deemed necessary by the department supervisor, he/she will notify the Mayor, who will establish in consultation with the supervisor the order of preference of layoff for as many employees as are to be separated. In any event, the Mayor will attempt to obtain a transfer of the employees to be laid off to other vacancies in the City.

### SECTION 2 TERMINATION OF EMPLOYEE:

- 2.01 The departmental supervisor, with the approval of the elected official, may terminate an employee for violations of the Code of Ethics or for any reason, including but not limited to:
- a. Fraud in securing appointment;
  - b. Incompetency;
  - c. Inefficiency;
  - d. Improper attitude;
  - e. Neglect of duty;
  - f. Insubordination;
  - g. Dishonesty;
  - h. Drunkenness;
  - i. Willful disobedience;
  - j. Misuse of government property;
  - k. Failure to obey departmental rules;
  - l. Discourteous treatment of the public;
  - m. Misuse of sick leave benefits; or
  - n. Unreported absence for one (1) work day.
- 2.02 Unreported absence will be deemed unexcused until the employee notifies the departmental supervisor of his/her inability to report for work. Failure or inability to report regularly for work will be grounds for disciplinary action, including termination.
- 2.03 In addition to the reasons stated above, the Mayor may establish other reasons for termination that are deemed necessary.
- 2.04 Nothing in these policies and procedures shall be deemed to change the status of employees as being employed "at will" under the laws of the State of Arkansas.

## **ARTICLE V HOURS OF WORK**

### **SECTION 1 REGULAR WORK WEEK:**

- 1.01 The regular work week shall consist of five (5) eight-hour days for a total of forty (40) work hours. However, special work hours and schedules will be established in departments that must schedule work according to workload and demand. For the purposes of overtime the City will utilize a one (1) week period to determine eligibility and compensation as required under Federal or State law.

### **SECTION 2 DAILY WORK HOURS OF EMPLOYEES:**

- 2.01 Regular City office working hours are from 8:00 a.m. until 5:00 p.m. Regular hours for Water and Street Department employees are from 8:00 a.m. until 5:00 p.m. Working day adjustments may be made by the Mayor as necessary. The Chief of Police will schedule any city officers or auxiliary officers as appropriate, so as to provide adequate protection services to the people. Chief of Police hours will vary according to court and school hours, but shall require a minimum of thirty-two (32) hours per week. The Chief of Police shall be deemed a full-time appointment regardless of the hours worked. The Mayor will provide a weekly schedule by Wednesday of the previous week, not to include the lunch hour.

### **SECTION 3 LUNCH BREAK:**

- 3.01 Unless otherwise stated, and whenever possible, a lunch period of one (1) hour will be scheduled during each work day.

## ARTICLE VI COMPENSATION

### SECTION 1 COMPENSATION:

- 1.01 Compensation shall be set by the Mayor, as approved in the yearly budget by the City Council of the City of Dyer, Arkansas.

### SECTION 2 TERMINATION PAY:

- 2.01 In addition to any wages due at the time a person is separated from the City employment he/she shall be paid, at his/her current hourly rate, for all accrued leave if he or she has completed at least (6) months of employment.

### SECTION 3 WORKERS' COMPENSATION:

- 3.01 This benefit is administered through the Arkansas Municipal League Workers Compensation Trust Fund. Employees should report any work related injuries that might be covered by Workers' Compensation as soon as possible. Manuals and forms are available in the Mayor's office.

### SECTION 4 HOLIDAYS:

- 4.01 The following seven (9) days shall be considered as paid holidays:

- a. New Year's Day;
- b. Robert E. Lee/Martin Luther King, Jr. Day;
- c. Presidents' Day
- d. Memorial Day
- e. Independence Day
- f. Labor Day;
- g. Veterans Day;
- h. Thanksgiving Day; and
- i. Christmas Day.

### SECTION 5 LEAVE OF ABSENCE:

- 5.01 In order to provide for an individual's need to have time away from work for reasons such as illness or injury, doctor or dental appointments, and to attend to personal business the City shall provide Paid Time Off ("PTO") to full and part-time employees.
- 5.02 PTO shall be at the employee's current rate of pay. For full-time employees, it shall be calculated on an eight (8) hour per day and a five (5) day per week basis. For part-time employees, it shall be calculated by taking the employee's total hours for the four (4) pay periods prior to the PTO day(s), dividing by twenty (20), and then multiplying by the



employee's current rate of pay to determine the gross pay amount for each PTO day. Employees may take PTO in increments of one-half (1/2) days.

- 5.03 The employee shall schedule PTO time as far in advance as allowed by the circumstances giving rise to the PTO by notifying their direct supervisor to schedule said time.
- 5.04 PTO days shall be calculated on a calendar year basis and shall not carry over from one year to the next.
- 5.05 PTO shall accrue at the following rates:
  - a. Both full and part-time employees in their first year of continuous employment shall accrue one PTO day every three (3) weeks of employment up to a maximum of fifteen (15) PTO days per calendar year.
  - b. Part-time employees in their second or any greater year of continuous employment shall receive fifteen (15) PTO days at the beginning of each calendar year.
  - c. Full-time employees in their second to ninth year of continuous employment shall receive fifteen (15) PTO days at the beginning of each calendar year.
  - d. Full-time employees in their tenth to fourteenth year of continuous employment shall receive twenty (20) PTO days at the beginning of each calendar year.
  - e. Full-time employees in their fifteenth or greater year of continuous employment shall receive twenty-five (25) PTO days at the beginning of each calendar year.

## ARTICLE VII JOB SAFETY

### SECTION 1 OSHA:

1.01 The City shall comply with all applicable provisions of OSHA.

### SECTION 2 ON-THE-JOB SAFETY:

2.01 Municipal employees of all types are exposed to a multitude of on-the-job risks. The Council feels the need to emphasize the employee's responsibility to use good judgment at all times and to learn the safe way to accomplish the job. Although the policy cannot be a comprehensive guide to job safety, it can include some basic rules that employees are expected to observe. The following is a list of basic safety rules to be followed:

- a. The right way is the safe way to do your job. Plan your work. Follow instructions. If you do not know, ask.
- b. Report all injuries, however small. Also report all unsafe conditions and unsafe acts which might be the cause of an accident.
- c. Use all safety devices and protective equipment provided for your use.
- d. Maintain good housekeeping by keeping your work area clean and orderly.
- e. Wear proper clothing. Loose sleeves, cuffs, rings and bracelets are hazardous around moving machinery, and should not be worn. Proper shoes are helpful in working and walking safely.
- f. Horseplay in any form is dangerous and prohibited.
- g. Oiling, greasing, or working on unprotected machinery in motion is prohibited.
- h. All machinery and equipment under repair and adjustment shall be properly "locked out" and tagged.
- i. Know the location of fire exits, the location and way to use fire extinguishers, and the proper method of reporting fires.

## ARTICLE VIII JOB DESCRIPTIONS

### SECTION 1 CITY EMPLOYEE JOB DESCRIPTIONS:

*NOTE: The following job descriptions are intended to provide a general description of the duties of various city employees. These descriptions are neither exhaustive nor exclusive, and the day to day duties of employees may vary from these descriptions as the needs of the City change. The mayor or other supervisors may assign different duties to employees in order to efficiently allocate resources to meet the needs of the citizens of Dyer, Arkansas.*

- 1.01 Street Maintenance employees are responsible for filling potholes, cleaning ditches, trimming branches, maintaining street signs, maintaining city vehicles, cleaning parks, maintaining playground equipment, and all other miscellaneous repair and maintenance of City property. Duties shall also include all other duties as may be assigned by the Mayor or other supervisor from time to time.
- 1.02 Sanitation and Trash employees are responsible for picking up trash at city residences and businesses and maintaining the city sanitation trucks. Duties shall also include all other duties as may be assigned by the Mayor or other supervisor from time to time.
- 1.03 Water Department employees are responsible for maintaining all inventories and the purchase of all parts and equipment required for everyday operations; repairs and maintenance on pumps, motors, electrical equipment, tools, meters, and miscellaneous equipment; installing new taps for water and sewer service; installing new meters, reading meters, repairing water and sewage system leaks and damage; performing all required testing; submitting monthly reports to required state offices; performing utility locate requests. Employees may be on-call twenty-four (24) hours a day due to the unforeseen nature of leaks or damage. Employees must also maintain a good working relationship with the public at-large, departments in surrounding areas, and various tradesmen involved in construction. Duties shall also include all other duties as may be assigned by the Mayor or other supervisor from time to time.
- 1.04 Building Department employees are responsible for inspecting all types of new construction, alterations, and repairs of residential and commercial buildings for conformance with building, plumbing, electrical, mechanical, fire, life safety, zoning, and state codes and structural safety regulations and requirements. Employees must maintain records on all building permit applications, permit issuances, and all inspections. Employees must also maintain a good working relationship with the public at-large and various tradesmen involved in construction. Duties shall also include all other duties as may be assigned by the Mayor or other supervisor from time to time.



- 1.05 The City Water Clerk is responsible for receiving and posting payments on customer accounts, daily cash reconciliation, preparing deposit slips, issuing receipts for all moneys received, preparing bills for payments, writing checks for bills on a weekly basis, maintaining checking account records in balance, reconciling bank statements, reading meters and taking samples as necessary, and general office activities. Duties shall also include all other duties as may be assigned by the Mayor or other supervisor from time to time.
- 1.06 The Court Clerk is responsible for preparing court dockets, preparing arrest warrants, drafting 20 day compliance orders, issuing drivers' license suspensions, collecting and receiving all fine money, preparing monthly papers for distribution of funds, and making transfers as needed. Duties shall also include all other duties as may be assigned by the Mayor or other supervisor from time to time.
- 1.07 The Administrative Assistant is responsible for collecting and receiving all payments to the city, keeping all checking account records in balance, preparing monthly reconciliation statements, report year to date totals, check all invoices and make out payments, preparing and submitting grant applications, general office activities. Duties shall also include all other duties as may be assigned by the Mayor or other supervisor from time to time.
- 1.08 The Flood Administrator is responsible for reviewing all areas of construction making sure that all National Flood Insurance Program ("NFIP") standards are met and abided by as required by city ordinance.



**CITY OF DYER, ARKANSAS**

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copy

**ORDINANCE NO. 2012-3-27-1**

AN ORDINANCE ESTABLISHING A POLICY FOR A DRUG-FREE WORKPLACE.

**WHEREAS,** the City of Dyer currently does not have a clear policy concerning a drug-free workplace, and the City Council has determined that a clear policy related to this issue would be beneficial for the citizens of Dyer.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF DYER, ARKANSAS, AS FOLLOWS:**

**SECTION 1:** Purpose of Policy

The City has a vital interest in providing for the safety and well being of all employees and the public, and maintaining efficiency and productivity in all of its operations. In fulfillment of its responsibilities, the City is committed to the maintenance of a drug and alcohol free workplace.

The City and certain employees who drive commercial motor vehicles are subject to the requirements of federal statutes and implementing regulations issued by the Federal Highway Administration of the U.S. Department of Transportation. However, certain city employees who perform safety and security-sensitive functions are not covered by the foregoing provisions. In addition, the City has an interest in maintaining the efficiency, productivity and well being of employees who do not perform safety or security-sensitive functions. In order to further provide a safe environment for city employees and the public, the City has adopted the following Drug-Free Workplace Policy for those employees who are not covered by federal law.

This policy does not govern or apply to employees who are subject to testing as commercial motor vehicle operators under the foregoing federal law and regulations. They are governed by a separate policy enacted pursuant to that legislation. However, such employees may be tested as authorized by this policy if the circumstances giving rise to such testing do not arise from the employee's operation of a commercial motor vehicle.

**SECTION 2:** Policy Statement

(a) All employees must be free from the effects of illegal drugs and alcohol during scheduled working hours as a condition of employment. Drinking alcoholic beverages or using drugs while on duty, on City property, in City vehicles, during

breaks or at lunch, or working or reporting for work when impaired by or under the influence of alcohol, or when drugs and/or drug metabolites are present in the employee's system, is strictly prohibited and grounds for disciplinary action up to and including immediate discharge. In addition, employees are subject to disciplinary action up to and including immediate discharge for the unlawful manufacture, distribution, dispensation, possession, concealment or sale of alcohol or drugs while on duty, on City property, in City vehicles, during breaks or at lunch.

(b) The City reserves the right to require employees to submit to urine drug testing and Breathalyzer alcohol testing to determine usage of drugs and/or alcohol as provided below. Employees must submit to all required tests. Any employee who refuses to submit to any required test without a valid medical explanation will be subject to immediate discharge. Refusal to execute any required consent forms, refusal to cooperate regarding the collection of samples, or submission or attempted submission of an adulterated or substituted urine sample shall be deemed refusal to submit to a required test.

(c) The City also reserves the right to require return to duty and follow-up testing as a result of a condition of reinstatement or continued employment in conjunction with or following completion of an approved drug and/or alcohol treatment, counseling or rehabilitation program.

### **SECTION 3:**      Safety and Security-Sensitive Positions Defined

(a) A safety-sensitive position is one in which a momentary lapse of attention may result in grave and immediate danger to the public. The following positions are considered safety sensitive:

- (1) Law enforcement officers who carry firearms and jailers.
- (2) Motor vehicle operators who carry passengers, including, but not limited to, ambulance drivers, bus or jitney drivers, and drivers who transport other city employees.
- (3) Fire department employees who directly participate in fire-fighting activities.
- (4) Medical personnel with direct patient care responsibilities including physicians, nurses, surgical scrub technicians, emergency medical technicians and trainees, medical and nurses assistants.
- (5) Mechanics, welders and sheet metal workers who work on vehicles designed to carry passengers such as buses, ambulances, police cruisers, vans and the like.

(6) Other employees whose duties meet the definition of safety or security sensitive after consultation with and approval by the Arkansas Municipal League.

(b) A security sensitive position includes

(1) any police officer, jailer, police dispatcher and police department employee, 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.

(2) the City also considers law enforcement officers as holding security-sensitive positions by reason of their duty to enforce the laws pertaining to the use of illegal substances. Officers who themselves use such substances may be unsympathetic to the enforcement of the law and subject to blackmail and bribery.

#### **SECTION 4:**      Drug-Free Awareness Program/Education and Training

The City will establish a Drug-Free Awareness Program to assist employees to understand and avoid the perils of drug and alcohol abuse. The City will use this program in an ongoing educational effort to prevent and eliminate drug and alcohol abuse that may affect the workplace.

The City's Drug-Free Awareness Program will inform employees about: (1) the dangers of drug and alcohol abuse in the workplace; (2) the City's policy of maintaining a drug and alcohol free workplace; (3) the availability of drug and alcohol treatment, counseling and rehabilitation programs; and (4) the penalties that may be imposed upon employees for drug and alcohol abuse violations.

As part of the Drug-Free Awareness Program, the City shall provide educational materials that explain the City's policies and procedures. Employees shall be provided with information concerning the effects of alcohol and drug use on an individual's health, work and personal life; signs and symptoms of an alcohol or drug problem; and available methods of intervening when an alcohol or drug problem is suspected, including confrontation and/or referral to management. Supervisors who may be asked to determine whether reasonable suspicion exists to require an employee to undergo drug and/or alcohol testing shall receive at least 60 minutes of training on alcohol misuse and 60 minutes of training on drug use. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and drug use.

#### **SECTION 5:**      Prohibited Substances/Legal Drugs/Unauthorized Items

(a) Prohibited Substances. Alcoholic beverages and drugs are considered to be prohibited substances in the workplace. For purposes of this policy, the term "drugs" includes controlled substances (as identified in Schedules I through V of Section 202 of the Controlled Substances Act, 21 U.S.C. ' 812, and the regulations promulgated thereunder, and defined in the Uniform Controlled Substances Act, Ark. Code Ann. ' 5-64-201-216), including synthetic narcotics, designer drugs, and prescription drugs, excepting: prescription drugs approved by and used in accordance with the directions of the employee's physician.

(b) Legal Drugs. The appropriate use of prescription drugs and over-the-counter medications is not prohibited. Any employee using a prescription drug should consult with his/her physician and pharmacist regarding the effects of the drug. Employees should read all labels carefully.

(c) Unauthorized Items. Employees may not have any unauthorized items in their possession or in any area used by them or under their control. Unauthorized items include, but are not limited to, alcoholic beverage containers and drug paraphernalia.

#### **SECTION 6:**      Use of Alcohol and Drugs/Prohibited Conduct

All employees covered under this policy are subject to the following prohibitions regarding the use of alcohol and drugs (controlled substances):

(1) Employees shall not report for duty or remain on duty while impaired by the consumption of alcohol. An employee will be deemed to be impaired by alcohol if that employee has a blood alcohol concentration of 0.04 or greater.

(2) Employees shall not consume alcohol while on duty.

(3) Employees required to undergo post-accident testing shall not use alcohol for 8 hours following the accident, or until they undergo a post-accident alcohol test.

(4) Employees shall submit to all authorized drug or alcohol tests.

(5) Employees shall not report for duty or remain on duty while under the influence of any controlled substance, except when the use thereof is pursuant to the instructions of a licensed physician who has advised the employee that the effect of the substance on the employee does not pose a significant risk of substantial harm to the employee or others in light of his/her normal job duties.

In addition, subject to disciplinary rules set forth below, employees who are found to have an alcohol concentration of 0.02 or greater, but less than 0.04, in any