

ORDINANCE NO. 0-95-8

AN ORDINANCE TO INCORPORATE THE FEDERAL DEPARTMENT OF TRANSPORTATION'S 1994 FINAL RULES FOR CONTROLLED SUBSTANCES AND ALCOHOL TESTING, UPDATING THE OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT OF 1991 INTO EXISTING PERSONNEL POLICIES AND TO AMEND ANY PERSONNEL POLICY PROVIDING FOR CONDITIONS OF EMPLOYMENT, DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, pursuant to Congressional mandate, the U.S. Department of Transportation has handed down its 1994 Final Rules for Controlled Substances and Alcohol Testing, (hereinafter called the Rules), which update the Omnibus Transportation Employee Testing Act of 1991; and

WHEREAS, all employees occupying positions which require a Commercial Driver's License in order to carry out the duties of their position will now be subject to the Rules, including those for drug and alcohol testing, effective January 1, 1996; and

WHEREAS, the Board of Directors of the City of Arkadelphia is committed to maintaining a safe workplace for its employees, and users of the public highways that is free from illegal drug use and the misuse of alcohol; and

WHEREAS, the Board of Directors of the City of Arkadelphia intends to comply with the requirements for drug and alcohol testing as mandated by the U. S. Department of Transportation and other Federal and State laws and regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF ARKADELPHIA:

SECTION 1: That all personnel policies of the Board of Directors of the City of Arkadelphia are hereby revised and amended to incorporate the 1994 DOT Final Rules. A copy of said Rules is attached hereto and by reference is incorporated herein in its entirety as if restated word for word.

SECTION 2: That this ordinance specifically amends any personnel policy providing for conditions of employment for employees whose duties require them to maintain a Commercial Driver's License in order to lawfully carry out their duties.

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SECTION 3: Any Ordinance, Resolution, Rule, Regulation or part of any Ordinance, Resolution, Rule, Regulation now in effect which conflicts with the Rules is hereby repealed.

SECTION 4: The Personnel Director (or other employee with equivalent responsibility) is hereby directed to establish procedures to ensure compliance with the Rules, including the assignment of a Designated Representative responsible for the execution of the procedures.

SECTION 5: Any laboratory, medical review officer, substance abuse professional or any other professional who receives payment for testing, evaluating, record-keeping, or other services mandated by the Rules must be qualified according to the Rules and must perform such services in conformance with 49 CFR Part 40 and part 382.

SECTION 6: Drug and alcohol testing will be administered to those employees mandated by the Rules, in the circumstances and in the manner mandated by the Rules.

SECTION 7: The penalty for refusal to take a mandated test for drugs or alcohol is immediate discharge

SECTION 8: The penalty for a positive drug test result, once the time limit for requesting a second test of a split sample has expired, or upon receipt of a positive drug test result from the second test, is immediate discharge.

SECTION 9: The penalty for a positive alcohol test result is immediate discharge.

SECTION 10: Employees whose initial drug test results are positive and who request a test of the second portion of the split sample will be suspended without pay until such time as the "Designated Representative" receives the results of the second (split sample) test. Such second test will be at the employee's expense.

SECTION 11: A negative result from the second (split sample) drug test will render the first test invalid and the employee will be reinstated with back pay and reimbursement for the costs of the second test.

SECTION 12: An employee suspected of unlawful use of drugs or abuse of alcohol while on duty as established by the Rules, or who is involved in an accident as defined in 49 CFR 390.4 (and receives a citation for a moving traffic violation in this

section) by the Rules, shall be suspended immediately with pay until the results of the drug or alcohol test are received by the "Designated Representative".

SECTION 13: If any provision of this Ordinance is held invalid by a court of law or subsequent legislative action, such holding shall in no way affect the validity of the remaining provisions or sections of this Ordinance, which shall remain in full force and effect.

SECTION 14: The need to adopt the Department of Transportation's 1994 Final Rules on Drug and Alcohol Testing effective January 1, 1996 is necessary for the effective, efficient, and safe operation of the City of Arkadelphia and to protect the health and welfare of its citizens who travel the streets and highways, and its employees in the workplace.

THEREFORE, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after January 1, 1996.

PASSED AND APPROVED THIS 19th DAY OF October, 1995.

APPROVED: *Kitty Holland Mayor*
Kitty Holland, Mayor

ATTEST:

Shirley A. Loy
Shirley Loy, Clerk