

ORDINANCE NO. 1680

AN ORDINANCE TO INCORPORATE THE FEDERAL DEPARTMENT OF TRANSPORTATION'S 1994 FINAL RULES FOR CONTROLLED SUBSTANCES AND ALCOHOL TESTING, TO UPDATE THE OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT OF 1991 INTO EXISTING PERSONNEL POLICIES, AND TO AMEND PERSONNEL POLICIES PROVIDING FOR CONDITIONS OF EMPLOYMENT

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 in the Public Works, Emergency Services, Solid-Wastes Management, and Administration Departments which require a Commercial Driver's License in order to carry out the duties of their position will be subject to the Rules, including those for drug and alcohol testing, effective January 1, 1996; and,

WHEREAS, the City Council of the City of Eureka Springs, Arkansas, is committed to protecting the health and welfare of its citizens who travel the streets and highways and its employees in the workplace; and,

WHEREAS, the City Council of the City of Eureka Springs, Arkansas, 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; and,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, THAT:

SECTION 1: The City of Eureka Springs Personnel Policy Handbook is 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: 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.

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or part of any Ordinance, Resolution, Rule, or Regulation now in effect which conflicts with the Rules is hereby repealed.

SECTION 4: The Personnel Director 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, recordkeeping, 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.

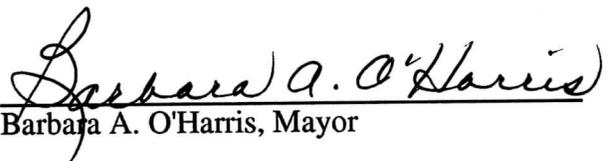
SECTION 11: A negative result from the second (split sample) drug test will render the first test invalid, and the employee will be reinstated with back pay and reimbursement for the costs of the second test.

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.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, THIS 24th DAY OF October, 1995.

APPROVED:


Barbara A. O'Harris, Mayor

ATTEST:


Mary Ann Lee, City Clerk