

**Arkansas Public Entities Risk Management Association  
(APERMA)  
Legal Defense Group**

211 HOBSON AVENUE  
POST OFFICE BOX 1558  
HOT SPRINGS NATIONAL PARK, AR 71902-1558  
TELEPHONE 501-624-7555  
FACSIMILE 501-624-7575

RALPH C. OHM - GENERAL COUNSEL

C. BURT NEWELL  
Direct Dial: (501) 321-2222

JACOB M. HARGRAVES  
Direct Dial: (501) 321-2222

April 19, 2007

*Via Fax: (870) 933-4652*  
Mayor Doug Formon  
City of Jonesboro  
410 West Washington  
Jonesboro, AR 72401


Re: Abuse of Power Ordinance

Mayor Formon:

The purpose for this letter is to inform you that I have reviewed the proposed Ordinance and the Personnel Policy. It is my opinion that by amending the Personnel Policy, it authorizes a supervisor to terminate an employee for engaging in this prohibited conduct (the subject of the proposed Ordinance); therefore, an Ordinance is not required at this time.

I hope this provides you with the information that you need concerning this matter. After you have had the opportunity to review this letter, should you have any questions or if I can be of assistance to you in anyway, please do not hesitate to contact me.

Respectfully,

  
Ralph C. Ohm

RCO/tj

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION TO AMEND THE EMPLOYEE HANDBOOK  
OF THE CITY OF JONESBORO**

**WHEREAS**, it is the desire of the City Council of Jonesboro, Arkansas, to amend the City of Jonesboro Employee Handbook to include provisions for the abuse of an employee's position of authority over the citizenry and/or knowingly and intentionally selectively enforcing the city codes.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS, THAT:**

The City of Jonesboro Employee Handbook – SECTION IV – STANDARDS OF CONDUCT, Page 4-4, under Guidelines for Appropriate Conduct, Paragraph 3 – “Types of behavior and conduct that the City considers inappropriate include, but are not limited to the following:” be amended to include:

15. Intentional abuse of an employee's position of authority over the citizenry
16. Knowingly or intentionally selectively enforcing the city codes

**ADOPTED AND APPROVED** this 1<sup>st</sup> day of May, 2007.

\_\_\_\_\_  
**Doug Formon, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Donna K. Jackson, MMC, City Clerk**

## **Guidelines for Appropriate Conduct**

As a City employee you should accept certain responsibilities, follow acceptable standards of personal conduct and display a high degree of personal integrity at all times. This requires a sincere respect for the rights and feelings of others. It also demands that while at work in your personal life, you avoid behavior that might be harmful to yourself, your co-workers, the citizens and/or the City.

Whether you are on duty or off duty, your conduct reflects on the City. You should observe the highest standards of professionalism at all times.

Types of behavior and conduct that the City considers inappropriate include, but are not limited to, the following:

1. Falsifying employment or other City records
2. Violating any City nondiscrimination and/or harassment policy
3. Soliciting or accepting gratuities from citizens
4. Excessive absenteeism or tardiness
5. Unnecessary or unauthorized use of City property
6. Reporting to work intoxicated, under the influence, or with a detectable presence of illegal drugs and manufacture, possession, use, sale, distribution or transportation of illegal drugs.
7. Abuse or unauthorized use of prescriptions or abuse over the counter medications
8. Buying or using alcoholic beverages while in or on City property or using alcoholic beverages while engaged in City business or on City premises
9. Fighting or obscene, abusive or threatening language, gestures, or actions
10. Theft of property from co-workers, citizens of the City
11. Unauthorized possession of firearms on City premises or while on City business
12. Disregarding safety or security regulations
13. Insubordination
14. Neglect or carelessness resulting in damage to City property or equipment
15. Intentional abuse of an employee's position of authority over the citizenry
16. Knowingly or intentionally selectively enforcing the city codes

If your performance, work habits, or actions become unsatisfactory or violate any of the above items or any other City policies, rules or regulations, you may be subject to disciplinary action, up to and including dismissal.

**Care of City Property:** As a City employee, your job requires you to use supplies and usually some type of equipment, all of which are public property. You must be careful about using materials wisely and keeping the equipment in good condition. Carelessness can result in disciplinary action. Discipline records will become a part of your personnel file. You can help keep costs down by treating City property as you would your own.

**Disciplinary Action:** If your performance, work habits, or actions become unsatisfactory, you may be subject to disciplinary action up to and including dismissal.

Disciplinary action may be any of the several forms listed below:

1. **Warning or Reprimand:** A reprimand is action used to alert you that your performance is not satisfactory or to call attention to your violation of employment rules or regulations. You may be officially reprimanded orally or in writing. A record of any reprimand will be entered in your personnel file.
2. **Suspension:** Suspension involves your removal from your job. You may be suspended with or without pay. A suspension must be in writing. The reason for such action, the period of time for the suspension and the date the suspension is to begin and end must be noted also. Suspension with pay is normally used only while your involvement in a serious incident is under investigation.
3. **Demotion:** If you have committed an appropriate offense, or if your work record justifies it, you may be demoted. You will be given written notice of such action. A demotion is an action that places you in a position of less responsibility and less pay.
4. **Termination:** This type of disciplinary action is your removal from City employment. If you have committed a serious offense or if your work record establishes grounds for termination, you may be given written reasons that can be supported at a pre-termination hearing.

While most situations involving disciplinary action will be dealt with in a progressive fashion, which should allow you to correct your performance; there are some offenses that may result in your immediate termination.

You have the right to appeal all types of disciplinary action outlined in the *Procedure for Review of Disciplinary Decisions* (See below outline).

**Procedures for Review of disciplinary Decisions:** If you request a review of any disciplinary action, it will be conducted as follows:

1. You will submit a written grievance to your immediate supervisor within 5-working days after the disputed disciplinary action. If possible, the grievance will be resolved at this level.
2. If you are not satisfied with the first step, you will submit the grievance *in writing* to your Department Head. The Department Head will investigate the problem and respond to you in writing within 5-working days.
3. If you are not satisfied with the second step, a written appeal may be made to the Human Resource Director or the Mayor. The mayor will make the final management decision within 10-working days and respond to all concerned parties in writing.



## Disciplinary Action Continued

**Procedure for Review of Disciplinary Decisions:** Any Department Head desiring to have a disciplinary action reviewed in writing within 5-working days of the action, a review by the Mayor will make the final management decision within ten working days and respond to all concerned parties in writing.

In the event the Department Head claims that an employee's liberty interest in future employment has been damaged as a result of any "*stigmatizing charges*" publicly committed by the city he/she must request in writing within 3-business days of said action, weekends and holidays excluded, a name clearing hearing. Said written request shall be forwarded to the Human Resource Director or in his/her absence to the chair of the Personnel Committee. In the event, the name clearing hearing is requested by the Human Resources Director, all communications shall be made to the chair of the Personnel Committee.

As soon as is practical said committee shall respond in writing to the person who is requesting said name clearing hearing with the time and place of said hearing. The committee decision as to the determination of the name clearing hearing shall be the final step for administrative process available. The hearing afforded said Department Head shall be in public, with a court reporter in attendance. Said hearing, in the absence of any employee manual procedures set out in the City of Jonesboro shall be conducted pursuant to the Arkansas Rules of Civil Procedure.