

TITLE 2

CLASSIFICATION, ADMINISTRATION

AND PERSONNEL

Chapters:

- 2.04 City Classification
- 2.08 City and Ward Boundaries
- 2.12 Social Security and Deferred Compensation
- 2.16 Unclaimed Property
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- 2.64 Regional Intermodal Facilities Authority
- 2.68 Independent Candidates
- 2.72 Computer Use and Communications Policy

CHAPTER 2.04

CITY CLASSIFICATION

Sections:

- 2.04.01 Operation as first class city

2.04.01 Operation as first class city The city of Pocahontas is hereby declared to be a city of the first class with all the rights and privileges as such city of the first class. The officials of Pocahontas are officials of a city of the first class and shall continue in office until their successors are elected and qualified, subject to the following provisions. (Ord. No. 221, Sec. 1.)

CHAPTER 2.08

CITY AND WARD BOUNDARIES

Sections:

2.08.01	Designation of wards
2.08.02	Ward #1
2.08.03	Ward #2
2.08.04	Ward #3
2.08.05	Annexed property
2.08.06	Voting precincts
2.08.07	Aldermen

2.08.01 Designation of wards In an effort to accomplish as nearly as possible numerical parity within the wards, the geographical boundaries of the three wards within the city of Pocahontas, Arkansas, shall be as follows:

2.08.02 Ward #1 Beginning at the northeast corner of the south ½ of the SW ¼ of Section 14-T19-R1E; being the northeast corner of the current city limit line; thence south and west following the current city limit line to Black River on the north line of Section 34-T19-R1E; including all areas east of Black River currently within the city limits; continuing from Black River south and west along current city limit line to Newberry Road; north on Newberry Road to Hospital Drive; east on Hospital Drive to Bowers Street; north on Bowers Street to Hwy 62W; west along Hwy 62W to North part Street; north on North Park to Marr Street; east on Marr to George Street; north on George to Barre Street; south on Barre to Marr Street; east on Marr to Cedar Street; north on Cedar to Convent Street; north on Convent to Broadway; east on Broadway to Thomasville; north on Thomasville to Dalton Street; east on Dalton to Decker Street; north on Decker to Maple Street; west on Maple to Haynes Street; south on Haynes to Thomasville; north on Thomasville to Benbrock Road; north on Benbrock Road to current city limit line; thence in an easterly direction along current city limit line to the point of beginning. (Ord. No. 02-4, Sec. 1.)

2.08.03 Ward #2 Beginning at the intersection of Dalton and Thomasville; thence south along Thomasville to Broadway; thence west on Broadway to Convent Street along Convent to Cedar Street; south along Cedar to Marr Street; thence west along Marr to Barre Street; north on Barre to the intersection of George; thence south on George to Marr Street; west on Marr Street to park Street; thence south on park to Hwy 62 W; thence east on Hwy 62W to Bowers Street; thence south on Bowers to Hospital Drive, thence west along Hospital Drive to Newberry Road; thence south on Newberry Road to the current city limit line on the west side of Newberry Road; thence follow the current city limit line to the intersection of Ridgecrest and Dalton Street; thence east on Dalton to Pyburn Street; thence southeasterly on Pyburn to Weible Street; thence north along Weible to Dalton; thence east on Dalton to the point of beginning. (Ord. No. 02-4, Sec. 1.)

2.08.04 Ward #3 Beginning at the corner of Maple Street and Decker Street; south along Decker to Dalton Street; thence west along Dalton to Weible Street; thence south along Weible to Pyburn Street; thence west along Pyburn to Dalton Street; thence west along Dalton to current city limit line; thence following current city limit line in a northerly direction to Benbrock Road; thence south along Benbrock Road to Thomasville; thence southeasterly along Thomasville to Haynes Street; thence north along Haynes to Maple Street; thence east along Maple to the point of beginning. (Ord. No. 02-4, Sec. 1.)

2.08.05 Annexed property As property is annexed into the city limits of the city of Pocahontas from time to time, the City Council will assign that property to the Ward that may be appropriate at the time the annexation is effectuated. (Ord. No. 02-4, Sec. 2.)

2.08.06 Voting precincts The voting precincts in each ward shall be as designated by the County Election Commission. (Ord. No. 370, Sec. 2.)

2.08.07 Alderman Candidates for Aldermen in the city of Pocahontas shall reside in their respective Wards and shall be elected by the qualified electors of the entire city. (Ord. No. 221, Sec. 6.)

CHAPTER 2.12

SOCIAL SECURITY AND DEFERRED COMPENSATION

Sections:

- 2.12.01 Contract
- 2.12.02 Withholding taxes from wages
- 2.12.03 City to match withholding
- 2.12.04 401a Contribution Plan
- 2.12.05 457 Deferred Compensation Plan

2.12.01 Contract. The Mayor and the City Council are hereby authorized and directed to enter into an agreement with the state for the purpose of obtaining insurance coverage for the employees of the city of Pocahontas, Arkansas, under the terms and provisions of the Federal Social Security Act.

2.12.02 Withholding taxes from wages. Each employee's insurance contribution shall be deducted from his salary check in accordance with the terms and provisions of the Social Security Act.

2.12.03 City to match withholding. There is hereby appropriated from the general fund of the city the sums of money necessary to pay the city's share of the insurance tax in accordance with the terms and provisions of the Social Security Act.

2.12.04 401a Contribution Plan

- A. The City adopts the Plan and the Trust Agreement ("Trust") for the Plan for its employees.
- B. The City Acknowledges that the Executive Committee of the AML will serve as the Board of Trustees of the AML Defined Contribution and Deferred Compensation Plan ("Trustees") and shall be only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the city of Pocahontas.
- C. The Mayor and City Clerk are authorized to sign all documents necessary to adopt the Plan and by so signing, be bound by the terms of the Plan as stated in the adoption agreement and plan other Plan Documents. The City reserves the right to amend its elections under the adoption agreement, so long as the amendment is not inconsistent with the Plan or the Internal Revenue Code or other applicable law and is approved by the Trustees of the Plan.
- D.
 - 1. The City agrees that it shall abide by the terms of the Plan and the Trust, including amendments to the Plan and the Trust made by the Trustee of the Plan, all investment, administrative, and other service agreements of the Plan and the Trust, and all applicable provisions of the Internal Revenue Code and other applicable law.
 - 2. The City accepts the administrative services to be provided by AML and any services provided by an outside service provider as selected by the Trustees. The City acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the participants' accounts.
- E.
 - 1. The City may terminate its participation in the Plan, including but not limited to, its contribution requirements, by way of:
 - a. An ordinance of the City Council terminating its participation in the Plan;
 - b. The ordinance must specify when the participation will end.

The Trustees shall determine whether the ordinance complies with the terms of the Plan, and all applicable federal and state laws. The Trustees shall also determine an appropriate effective date, and shall provide appropriate forms to terminate ongoing participation. However, distributions under the Plan of existing accounts to participants will be made in accordance with the Plan.

2. The City acknowledges that the Plan contains provisions for involuntary Plan termination.
- F. The City acknowledges that all assets held in connection with the Plan including all contributions to the Plan, all property and rights acquired or purchased by such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of participants and their beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of participants and their beneficiaries and defraying, reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, are held as part of the Plan. All contributions to the Plan shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan. All contributions to the Plan must be transferred by the City to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan. (Ord. No. 05-3, Secs. 1-6.)

12.12.05 457 Deferred Compensation Plan

- A. The City adopts the Plan and the Trust Agreement ("Trust") for the Plan for its employees.
- B. The City Acknowledges that the Executive Committee of the AML will serve as the Board of Trustees of the AML Defined Contribution and Deferred Compensation Plan ("Trustees") and shall be only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the city of Pocahontas.
- C. The Mayor and City Clerk are authorized to sign all documents necessary to adopt the Plan and by so signing, be bound by the terms of the Plan as stated in the adoption agreement, and plan other Plan Documents. The City reserves the right to amend its elections under the adoption agreement, so long as the amendment is not inconsistent with the Plan or the Internal Revenue Code or other applicable law and is approved by the Trustees of the Plan.

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 2. The City accepts the administrative services to be provided by AML and any services provided by an outside service provider as selected by the Trustees. The City acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the participants' accounts.
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 - a. An ordinance of the City Council terminating its participation in the Plan;
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The Trustees shall determine whether the ordinance complies with the terms of the Plan, and all applicable federal and state laws. The Trustees shall also determine an appropriate effective date, and shall provide appropriate forms to terminate ongoing participation. However, distributions under the Plan of existing accounts to participants will be made in accordance with the Plan.
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- F. The City acknowledges that all assets held in connection with the Plan including all contributions to the Plan, all property and rights acquired or purchased by such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of participants and their beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of participants and their beneficiaries and defraying, reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, are held as part of the Plan. All contributions to the Plan shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan. All contributions to the Plan must be transferred by the City to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan. (Ord. No. 05-4, Secs. 1-6.)

CHAPTER 2.16

UNCLAIMED PROPERTY

Sections:

2.16.01	Disposal
2.16.02	Sale
2.16.03	Proceeds of sale to owner
2.16.04	Proceeds remaining after six months

2.16.01 Disposal. The Mayor, under the direction hereinafter set out, is hereby authorized and directed to dispose of at public auction all unclaimed personal property rightfully coming into the hands of his office and to dispose of other confiscated property confiscated under the orders of the City Court with the exception of confiscated liquor.

STATE LAW REFERENCE - For procedure relating to liquor, See A.C.A. 3-3-312

2.16.02 Sale. All unclaimed personal property coming into the hands of the Mayor will be held by him for a period of six (6) weeks or longer. If property remains unclaimed, he shall periodically advertise such property in some newspaper of general circulation in the city of Pocahontas once each week for three (3) consecutive weeks setting forth in the notice the time for the sale which shall not be earlier than five (5) days after the last publishing of the notice and no later than ten (10) days thereafter, designating an easily accessible place for the sale thereof, and giving a complete list and description of unclaimed articles to be sold. The Mayor shall have the right to refuse any and all bids not satisfactory and will then proceed to advertise these items for sale at a later date. Terms of such sale shall be for cash only. Nothing in this chapter shall prohibit any person who properly identifies any of the property as being their own before the sale from claiming and having property restored to them.

2.16.03 Proceeds of sale to owner. The Mayor shall deposit the receipt from the aforesaid sale of unclaimed property in the treasury and the Treasurer is to keep these funds in a special account for a period of six (6) months and any person identifying as his own any of such property within the six (6) month period shall upon the presentation of satisfactory proof be paid by the city out of the special account the amount for which the property was sold. The Clerk/Treasurer or some person designated by him shall keep in a well bound book an accurate record and description of each piece of unclaimed property passing through his office and the price for which it was sold and the date, the name and address of those who purchased same, as well as a complete record of those who identified and claimed any of the property before it was sold.

2.16.04 Proceeds remaining after six months. All proceeds from the sale remaining in the special fund for a period of six (6) months shall by the Treasurer be transferred to the city's general fund and no further payment shall be made therefrom to anyone who thereafter claims ownership.

CHAPTER 2.20**CITY COUNCIL****Sections:**

2.20.01	Council meetings - regular
2.20.02	Council meetings - special
2.20.03	Freedom of information procedure
2.20.04	Order of business
2.20.05	Compensation
2.20.06	Terms of Aldermen

2.20.01 Council meetings - regular. All regular meetings of the Council shall be held at the municipal building on the second Tuesday of each month.

2.20.02 Council meetings - special. Special meetings of the City Council of the city of Pocahontas, Arkansas, may be held upon the call of the Mayor, whenever in his opinion it shall be necessary, or by three (3) members of the Council by giving at least three (3) days' notice of such special meeting, by giving notice in writing which notice shall be served personally or through the mails to all members of the Council, which notice shall state the time of the meeting and purpose thereof.

2.20.03 Freedom of information procedure. All meetings of the City Council of the city of Pocahontas, Arkansas, shall be public meetings. Notice of the time, place and date of all special meetings shall be given to representatives of the newspapers and radio stations located in Randolph County, Arkansas, which have requested to be notified at least two (2) hours before the special meeting takes place.

2.20.04 Order of business. At all meetings of the Council the following shall be the order of business unless the Council by a majority vote shall order otherwise.

1. Call to order
2. Roll call
3. Reading of minutes of the previous meeting
4. Reports of boards and standing committees
5. Reports of special committees
6. Unfinished business
7. New business
8. Announcements
9. Adjournment

2.20.05 Compensation The compensation for the council members of the Pocahontas City Council shall be Three Hundred Dollars (\$300.00) per regular monthly meeting. Council members will receive Seventy-Five Dollars (\$75.00) for special council meetings. (Ord. No. 01-16, Sec. 1.)

2.20.06 Terms of Aldermen

- A. The aldermen for the city of Pocahontas are elected to two-year terms of office.
- B. A.C.A. 14-43-312 provides that the city of Pocahontas may, by ordinance, refer the question to voters to elect two (2) Aldermen from each ward to four-year terms;
- C. The city of Pocahontas desires to refer to the voters at the next general election the question of increasing the term of the Aldermen from each ward for the city of Pocahontas from the current term of two-years to a term of four-years;
- D. If the voters approve such a change in the terms of Aldermen, then the Alderman representing position number one from each ward will be elected to a four-year terms at the next general election. The Alderman representing position number two from each ward will be elected to an initial two-year term at the next election and thereafter will be elected to four-year terms, resulting in staggered terms with one (1) Alderman being elected to a four-year term from each ward every two (2) years. (Ord. No. 04-6, Secs. 1-4.)

CHAPTER 2.24

MAYOR

Sections:

- 2.24.01 Office created
- 2.24.02 Election
- 2.24.03 Duties
- 2.24.04 Appointment of officers
- 2.24.05 Salary

2.24.01 Office created. The office of Mayor is hereby created for the city of Pocahontas, Arkansas.

2.24.02 Election On the Tuesday following the first Monday in November 1978 and every four (4) years thereafter, the qualified voters of the city of Pocahontas, Arkansas, shall elect a Mayor for four (4) years.

2.24.03 Duties As chief executive of the city, the Mayor shall preside over all meetings of the City Council of the city of Pocahontas, Arkansas, and shall perform such duties as may be required of him by state statute or city ordinance.

2.24.04 Appointment of officers The Mayor shall appoint, with the approval of the City Council of the city of Pocahontas, Arkansas, (where such approval or confirmation is required) all officers of the city whose election or appointment is not provided for by state statute or city ordinance.

2.24.05 Salary The salary of the Mayor of the City of Pocahontas is hereby set at Forty-Nine Thousand Two-Hundred Ninety-Four Dollars (\$49,294) per annum beginning January 1, 2019 and ending December 31, 2019. (Ord. No. 2018-09, Sec. 1.)

CHAPTER 2.28

CLERK/TREASURER

Sections:

2.28.01	Offices combined
2.28.02	Compensation
2.28.03	Duties
2.28.04	Collector

2.28.01 Offices combined The offices of City Clerk and Treasurer are hereby combined into one office to be known as the Clerk/Treasurer.

2.28.02 Compensation The salary of the City Clerk/Treasurer of the City of Pocahontas is hereby set at Forty-Nine Thousand Two-Hundred Ninety-Four Dollars (\$49,294) per annum beginning January 1, 2019 and ending December 31, 2019. (Ord. No. 2018-09, Sec. 2.)

2.28.03 Duties The duties of the Clerk/Treasurer shall be:

- A. To keep an accurate and complete record of the finances of the different departments of the city and of the receipts and disbursements of funds belonging to the different departments of the city, as designated by the City Council.

- B. To perform such other duties as may be required by the ordinances of the city or laws of the State.

2.28.04 Collector The Clerk/Treasurer shall be the collector of all occupational and privilege taxes and other taxes for the city. The Clerk/Treasurer shall keep records on all occupational and other taxes and moneys collected.

CHAPTER 2.32

CITY ATTORNEY

Sections:

- 2.32.01 Appointment
- 2.32.02 Salary
- 2.32.03 Duties
- 2.32.04 Additional duties
- 2.32.05 Retirement benefits
- 2.32.06 Approval

2.32.01 Appointment The Mayor, with the approval of a majority of the City Council may appoint the City Attorney for the city of Pocahontas, Arkansas, under authority of Act 266 of 1971. Such attorney shall be a qualified elector and shall be a licensed attorney under the laws of the state of Arkansas. (Ord. No. 287, Sec. 1.)

2.32.02 Salary The salary of the City Attorney of the City of Pocahontas is hereby set at Thirty-Six Thousand Four-Hundred Thirty-Five Dollars (\$36,435) per annum beginning January 1, 2019 and ending December 31, 2019. (Ord. No. 2018-09, Sec. 3)

2.32.03 Duties The City Attorney shall take charge of and direct the management of all litigation in which the city may be a party or in which the city may have an interest. The City Attorney will prosecute all cases coming before the Municipal Court of the city to which the city may be a party and all such cases that may be appealed from said court. The City Attorney shall represent the city and all of the city officials in their official capacity in all legal proceedings and matters in which they may be apart or interested. The City Attorney shall advise the Mayor and Council upon any and all legal questions affecting the city's interest. (Ord. No. 287, Sec. 7.)

2.32.04 Additional duties In addition thereto, the City Attorney shall perform such duties as prescribed by the Mayor and City Council, the statues of the state of Arkansas and the ordinances of the city. (Ord. No. 287, Sec. 8.)

2.32.05 Retirement benefits A.C.A. 24-12-120 provides that the governing body may provide for retirement benefits for their city attorney who shall have served in office as Municipal Attorney for a period of not less than 20 years. This statute further provides that after 20 years of service, said attorney shall be entitled to retirement benefits during the remainder of his natural life, payable at the rate of one-half (½) of the salary payable to the Municipal Attorney at the time of his retirement. (Ord. No. 98-12, Sec. 1.)

2.32.06 Approval The City Council of the city of Pocahontas hereby approves the retirement plan for the Pocahontas City Attorney as set forth in the above referenced statute and further approves any amendments thereto which would change the requirements necessary for eligibility for same. (Ord. No. 98-12, Sec. 2.)

CHAPTER 2.34

PROBATION OFFICER

Sections:

2.34.01 Partial Funding for a District Court Probation Officer

2.34.01 Partial Funding for a District Court Probation Officer The City Council hereby appropriates \$5,230.73 to be paid as compensation to a qualified probation officer during the 2017 fiscal year. The probation officer will supervise convicted persons who are serving probation for municipal violations and violations of state law which occur within the City of Pocahontas and who are subject to the jurisdiction of the Randolph County District Court. All remaining funding to retain said probation officer will be provided by Randolph County, a political subdivision of the State of Arkansas. (Ord. No. 2017-07, Sec. 1)

The City Council hereby authorizes the Mayor and City Clerk/Treasurer to administer the directive of this resolution. (Ord. No. 2017-07, Sec. 2)

CHAPTER 2.36

FIRE DEPARTMENT

Sections:

2.36.01 Creation
 2.36.02 Appointment of Fire Chief
 2.36.03 Policies and procedures
 2.36.04 Part-time employees
 2.36.05 Salaries
 2.36.06 Additional compensation
 2.36.07 Rural Association
 2.36.08 Fees

2.36.01 Creation The Pocahontas Fire Department and the Pocahontas Rural Firefighters Association shall be under the direction and control of the city of Pocahontas. (Ord. No. 2009-13, Sec. 1.)

2.36.02 Appointment of Fire Chief The Mayor shall appoint the Fire Chief for the Pocahontas Fire Department and the Pocahontas Rural Firefighters Association and that said person shall be the department head for both groups. Said appointment shall serve at the will of the Mayor per A.C.A. 14-42-110. (Ord. No. 2009-13, Sec. 2.)

2.36.03 Policies and procedures The Board created by Ord. No. 99-6 is now dissolved. The members of the Pocahontas Fire Department and the Pocahontas Rural Firefighters Association will be subject to the current policies and procedures contained in the city of Pocahontas' personnel manual including, but not limited to, the procedures for the hiring and removal of personnel. (Ord. No. 2009-13, Sec. 3.)

2.36.04 Part-time employees The members of the Pocahontas Rural Firefighters Association who are not full-time employees of the Pocahontas Fire Department shall be treated as part-time employees for the city of Pocahontas and are not eligible for benefits other than those retirement benefits provided by state law. (Ord. No. 2009-13, Sec. 4.)

2.36.05 Salaries Each full-time employee of the Pocahontas Fire Department who reports for any meetings, calls, training, etc. while off-duty, shall be paid their standard hourly rate as determined by the city's budget for each response. All other members of the Pocahontas Rural Firefighters Association shall receive the sum of Nine Dollars (\$9.00) per hour for each response. All full-time employees for the Pocahontas Fire Department will be paid in addition to their normal salary for all fire calls to which the full-time employee responds that occur at a time other than said employee's regular shift. The Fire Chief for the Pocahontas Fire Department shall receive an additional Six Hundred Dollars (\$600.00) per year for his duties as Fire Chief for the Pocahontas Rural Firefighters Association. The aforementioned pay schedules shall be retroactive back to the effective date of Ord. No. 2009-13. (Ord. No. 2010-1, Sec. 1.)

2.36.06 Additional compensation Each employee and each paid volunteer of the Pocahontas Fire Department and the Pocahontas Rural Firefighters Association shall receive the sum of \$10.00 for each fire call response. The national minimum wage amount will be paid for any fire call response in being in excess of one hour. All full-time employees will be paid such sums in addition to their normal salary for all fire calls to which the full-time employee responds that occur at a time other than said employee's regular shift. (Ord. No. 99-6, Sec. 6.)

2.36.07 Rural Association The Pocahontas Rural Firefighters Association will offer fire protection to Randolph County residents by membership for fee. The Mayor and the City Council shall establish the membership fees by resolution or ordinance.

Until otherwise amended, the annual residential membership fee to the association shall be \$36.00 per residence or property site. Fire protection shall include outbuildings, barns, etc., located at the residence or property site. A fire response to a non-member Randolph County

resident shall be fixed at the sum of \$500.0 per response. Annual commercial memberships to the association shall be offered to owners of commercial structures located within Randolph County and being 1 to 1999 square feet in size for \$36.00; over 2000 square feet in size for \$60.00. (Ord. No. 99-6, Sec. 7.)

2.36.08 Fees Fees collected from the members and non-members of the Pocahontas Rural Firefighters Association shall be collected by the city of Pocahontas and placed in a separate account entitled Pocahontas Rural Firefighter Association. All expenditures from said account shall be solely for maintenance and improvements of the association. It will be the duty of the Pocahontas City Clerk/Treasurer to receive, distribute, and record all income and expenses for the Pocahontas Rural Firefighters Association. For such duties, the Clerk/Treasurer will be paid, in addition to her normal salary, the sum of \$100.00 per month. The Pocahontas Fire Chief will be paid, in addition to his normal salary, the sum of \$50.00 per month for his duties as chief of the Pocahontas Rural Firefighter Association. These sums shall also be paid from the account of the Pocahontas Rural Firefighters Association. (Ord. No. 99-6, Sec. 8.)

CHAPTER 2.40

POLICE DEPARTMENT

Sections:

2.40.01	Established
2.40.02	Duties of Police Chief
2.40.03	Policemen's Pension and Relief Fund
2.40.04	Taser Policy

2.40.01 Established The city hereby establishes a Police Department which shall be known as the "Pocahontas Police Department" and the duties thereof shall be to maintain police protection and police services within the city of Pocahontas.

STATE LAW REFERENCE - See A.C.A. 14-52-101 et seq.

2.40.02 Duties of Police Chief The Police Chief shall be the head of the department and shall be fully responsible for the operation and the equipment of the department. It shall be his duty to determine all matters in connection with the operation of his department, except the expenditure of city funds. He shall attend the first Council meeting of the month and make his monthly report to the City Council concerning the operation and equipment of the department, and such other matters as shall be determined necessary by ordinance of the City Council. Other duties shall be such as are fixed by the laws of the state and ordinances of the city.

2.40.03 Policemen's Pension and Relief Fund There is hereby established an additional \$1.00 court cost in the city of Pocahontas, Arkansas, for the purpose of public defense investigation and an additional \$3.00 court cost for Policemen's Pension and Relief Fund. The court costs shall be assessed upon each judgment of conviction, upon each plea of guilty, and upon each plea of *nolo contendere* or bond forfeiture in felony, misdemeanor, and traffic violation cases for violation of state law or local ordinance in the District Court of city of Pocahontas, Arkansas. (Ord No. 471, Sec. 1.)

2.40.04 Taser Policy The Pocahontas Police Department Taser Policy, which is attached hereto and made a part hereof, is hereby adopted. (Ord. No. 2014-1, Sec. 1.)

CHAPTER 2.44

DISTRICT COURT

Sections:

2.44.01	District Court established
2.44.02	Qualifications and powers of District Judge
2.44.03	Salary
2.44.04	Provision of probation services
2.44.05	Court costs
2.44.06	Legal Defense Fund
2.44.07	Working prisoners
2.44.08	District Court Clerk

2.44.01 District Court established. The District Court is hereby established for the city of Pocahontas, Arkansas.

2.44.02 Qualifications and powers of District Judge. The District Judge shall possess the same qualifications and have the same powers, jurisdiction, functions and duties as is provided by state law for other district judges.

2.44.03 Salary The salary of the Pocahontas District Judge is hereby fixed at Twenty-one Thousand Nine Hundred Sixty-Eight Dollars (\$21,968.00) per annum from January 1, 1998 to December 31, 1998. (Ord. No. 97-16, Sec. 1.)

2.44.04 Provision of probation services

- A. The judge of the District Court of Pocahontas, Arkansas, is hereby authorized to contract for the provision of probation services to the District Court, provided such contract shall not incur monetary obligation upon the city.
- B. Any contract for probation services entered into by the District Judge shall be subject to the bonding and other requirements of A. C.A. 16-17-127. (Ord. No. 99-07, Secs. 1-2.)

2.44.05 Court costs

- A. The Judge of the District Court of the city of Pocahontas, Arkansas, is hereby authorized to assess court costs in amounts allowable by law and to assess all costs in each case as permitted by the statutes of the state of Arkansas. (Ord. No. 441, Sec. 1.)

- B. From and after the enactment of this ordinance there shall be assessed and collected additional court costs as follows: for any conviction of the charge of public drunkenness, \$1.00, and for any conviction of a charge of driving while under the influence of intoxicants, \$5.00. The foregoing amounts shall be in addition to all other costs permitted by law.
- C. There is hereby created a separate fund to be maintained by the Clerk of the District Court for the purpose of purchasing, maintaining, and operating equipment designed to test the fact and degree of intoxication of persons arrested on charges of public drunkenness and driving while under the influence of intoxicants. Provided, however, that the surplus if any, after the accomplishment of the above purpose may be used in defraying any other legitimate administrative expenses of the District Court. (Ord. No. 236, Secs. 1-2.)

2.44.06 Legal Defense Fund

- A. There is hereby created a Legal Defense Fund for the city of Pocahontas, Arkansas.
- B. All civil or criminal cases filed in the District Court within Pocahontas, Randolph County, Arkansas, shall have added to the cost therein, in addition to those costs presently assessed, the sum of \$5.00 which shall be deposited with the City Clerk of the city of Pocahontas, Arkansas, in the fund herein established. However, no such fee shall be taxed as cost in any action filed in the Small Claims Division of the District Court of Pocahontas, Randolph County, Arkansas.
- C. This ordinance shall be effective as of January 15, 1989. (Ord. No. 422, Secs. 1-3.)

2.44.07 Working prisoners The Mayor of said city of Pocahontas, be, and hereby is authorized and directed to enter into a contract with another city or county in the state of Arkansas for the safekeeping, maintenance and working of prisoners who are committed to serve sentence in the jail of the city of Pocahontas, and authorized hereby to make such contract with such other city or county in the state of Arkansas as he may deem to be of the best interest of the said city of Pocahontas, and under said contract to provide for the transmitting of such persons as are committed to the jail of the city of Pocahontas to the jail of the city or county under such contract, and or the return of said prisoner. (Ord. No. 218, Sec. 1.)

2.44.08 District Court Clerk The Pocahontas District Court Clerk is hereby designated as the person primarily responsible for the collection of fines assessed in Randolph County District Court for the City of Pocahontas, Arkansas. (Ord. No. 2015-04, Sec. 1)

CHAPTER 2.46

JAIL FINES

Sections:

2.04.01 Levy of additional fine

Under authority of Act 209 of 2009, there is hereby levied and shall be collected an additional fine in the amount of Twenty Dollars (\$20.00) from each defendant upon each conviction, each plea of guilty or *nolo contendere*, or each bond forfeiture for any misdemeanor or traffic violation in the Randolph County District Court on behalf of the city of Pocahontas. (Ord. No. 2017-20, Sec. 1)

The additional fine levied in Section 1 hereinabove shall apply to all applicable cases brought before all City Courts, District Courts, and departments thereof that now exist and are in operation, or may hereafter be operated and placed into operation, within or on behalf of the City of Pocahontas, Arkansas. (Ord. No. 2017-20, Sec. 2)

All additional fines levied and collected under the provisions of this Ordinance shall be sent to the City Treasury with identification of the sum representing revenues from the cases of any misdemeanor or traffic violation in the courts acting on behalf of the city of Pocahontas and deposited into a special fund within the City Treasury to be used exclusively for the purpose of defraying the costs of incarceration of city prisoners and for all other purposes enumerated in Act 209 of 2009. (Ord. No. 2017-20, Sec. 3)

CHAPTER 2.48

ARTS COMMISSION

Sections:

2.48.01	Purpose
2.48.02	Establishment
2.48.03	Members
2.48.04	Terms
2.48.05	Powers and duties

2.48.01 Purpose The purpose of this ordinance is to provide for the establishment of an Arts Commission for the city of Pocahontas, Arkansas, and surrounding communities, for appointment of its members, and to specify its powers and duties. (Ord. No. 413, Sec. 1.)

2.48.02 Establishment There is hereby established an Arts Commission for the city of Pocahontas, Arkansas. (Ord. No. 413, Sec. 2.)

2.48.03 Members The Arts Commission shall consist of five (5) full members and two (2) ex officio (non-voting) members. The appointments shall be made by the City Council from names recommended by representative civic, educational and professional associations and groups concerned with or engaged with the five arts generally. The ex-officio members shall be the Mayor of Pocahontas and a member of the City Council. (Ord. No. 413, Sec. 3.)

2.48.04 Terms

- A. The term of office of each member shall be four (4) years except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two (2) years as terms expire.
- B. The original appointments by the City Council shall be for two (2) members to be appointed for four (4) year terms expiring on July 1, 1991; and three (3) members for a two (2) year term expiring on July 1, 1989.
- C. Vacancies shall be filled for the balance of any unexpired term in the same manner as original appointments.
- D. The Art Commission member shall not receive any compensation for their services. (Ord. No. 413, Sec. 4.)

2.48.05 Powers and duties The Arts Commission shall have the following powers and duties:

- A. To meet and elect from its members a chairman, vice chairman and secretary.
- B. To establish a local Fine Arts Council.
- C. To review and serve as advisory board for the Fine Arts Council.
- D. To submit annual report to the City Council. (Ord. No. 413, Sec. 5.)

CHAPTER 2.52

AIRPORT COMMISSION

Sections:

- 2.52.01 Creation
- 2.52.02 Members
- 2.52.03 Amendment to members
- 2.52.04 Accounting
- 2.52.05 Salary

2.52.01 Creation The city of Pocahontas, in Randolph County, Arkansas, does hereby create a Municipal Airport Commission, to be composed of five citizens who are qualified electors of the city for the purpose of operating and managing the municipally owned airport, said Commissioners shall hold office subject to and shall have and exercise the powers conferred by the provisions of Act No. 215 of the Acts of the General Assembly of the state of Arkansas for the year 1949, now found in 14-359-101 to 14-359-120, inclusive. (Ord. No. 440, Sec. 1.)

2.52.02 Members The first members of said Commission shall be appointed by the Mayor and confirmed by a three-fourths vote of the duly elected and qualified members of the City Council, and of the five first Commissioners appointed, the Mayor or City Council shall designate one Commissioner who shall serve for a term of one (1) year, one Commissioner who shall serve for a term of two (2) years, one Commissioner who shall serve for a term of three (3) years, one commissioner who shall serve for a term of four (4) years, and one Commissioner who shall serve for a term of five (5) years from the date of their appointment, and upon the expiration of their respective terms, their successors shall be appointed by the Mayor, subject to the approval of three-fourths of the duly elected and qualified members of the City Council, for a term of five (5) years. In the event of vacancy on the Commission, the Mayor will appoint a member, subject to the approval of three-fourths of the duly elected and qualified members of the

City Council, to fill such vacancy for the remainder of that term in which the vacancy exists. Each Commissioner, upon taking office, shall file with the City Recorder the oath required by law for public officials in the state of Arkansas. (Ord. No. 440, Sec. 2.)

2.52.03 Amendment to members

- A. The city of Pocahontas in Randolph County, Arkansas, does hereby amend Ord. 440 to create two (2) additional positions on the Municipal Airport Commission, for a total of seven (7) citizens who are qualified electors of the state for the purpose of operating and managing the municipally owned airport, said commissioners shall hold office subject to and shall have and exercise the powers conferred by the provisions of A.C.A. 14-359-101 to 14-359-120, inclusive.
- B. The two (2) additional members of said Commission shall be appointed by the Mayor and confirmed by a three-fourths vote of the duly elected and qualified members of the City Council, and of the two new commissioners appointed, the Mayor or City Council shall designate one commissioner to serve for a term of five (5) years, and the other for four (4) years expiration of their respective terms, their successors shall be appointed by the Mayor, subject to the approval of three-fourths of the duly elected and qualified members of the City Council, for a term of five (5) years. In the event of vacancy on the Commission, the Mayor will appoint a member, subject to the approval of three-fourths of the duly elected and qualified members of the City Council, to fill such vacancy for the remainder of that term in which the vacancy exists. Each commissioner, upon taking office, shall file with the City Recorder the oath required by law for public officials in the state of Arkansas. (Ord. No. 01-6, Sec. 2.)

2.52.04 Accounting The said Commission is hereby specifically directed by the City Council to secure the services of a capable public accountant to check the present methods of keeping the records of the receipts and disbursements of the present municipal airport system and to make such changes and install such methods of accounting as in his judgment are necessary or desirable for the purpose of complying with the undertakings of the city to keep proper books of records, and accounts (separate from all other records and accounts) of all transactions relating to the airport system, and that the Commission shall thereafter employ an independent auditor who will at least once every twelve months make a complete audit of the books of the airport system, and one copy of this audit shall be filed in the office of the City Recorder, subject to the examination of any person interested. (Ord. No. 440, Sec. 3.)

2.52.05 Salary Repealer Clause. Section 4 of Ordinance No. 440 and Section 3 of Ordinance No. 2001-06 are hereby repealed. A salary shall no longer be provided for members of the Airport Commission of the City of Pocahontas. All other ordinances, resolutions, or parts thereof in conflict with this Ordinance are hereby repealed to the extent of the conflict. (Ord. No. 2015-05, Sec. 1)

CHAPTER 2.56

PERSONNEL POLICIES

Sections:

2.56.01	Personnel Policy Handbook
2.56.02	General employee benefits
2.56.03	Matters affecting the status of employees
2.56.04	Standards of conduct
2.56.05	Miscellaneous information

2.56.01 Personnel Policy Handbook. The following personnel policies shall apply to all employees of the city of Pocahontas

- A. **Equal Opportunity Employer.** The city of Pocahontas, Arkansas, is committed to providing equal employment opportunities without regard to race, color, religion, national origin, sex, age, handicap or veteran status as required by all federal and state laws. Furthermore, the city does not discriminate on the basis of disability. The city's commitment extends to all employment-related decisions, terms and conditions of employment, including job opportunities, promotions, pay and benefits.

- B. **At-Will Employer.** The city of Pocahontas, Arkansas, is an at-will employer. This means that the city of Pocahontas or any city employee may terminate the employment relationship at any time for any reason with the understanding that neither has an obligation to base that decision on anything but his or her intent not to continue the employment relationship. No policies, comments, or writings made herein or during the employment process shall be construed in any way to waive this provision.

- C. **Job Posting And Advertising.**
 1. Application for employment will be accepted from anyone who wishes to apply for employment upon forms provided by the city. Application forms are available in the office of the city.

 2. In the event of a job opening, the particular position or positions open will be announced and posted in a newspaper of general circulation at least ten (10) days prior to the deadline for receiving applications. Copies of the job announcement form will be distributed to city departments and as appropriate, to public and private employment agencies, local newspapers and other sources which might recruit applicants. Recruitment resources

will be notified at least ten (10) days prior to the predetermined cut-off date for receiving applications.

3. Applications for full-time city employment will not be accepted from anyone under eighteen (18) years of age. Except as otherwise provided by Arkansas law, the Mayor shall make the final decision with respect to hiring new employees and promoting existing employees.

D. Post Offer Pre-Employment Physicals.

1. Post offer pre-employment physicals will be required for every applicant to be hired for the city in a permanent employment position. Such examinations shall be paid for by the city and shall be used to determine whether the applicant can perform the essential functions of the job with or without reasonable accommodation. The examinations shall be performed by licensed physicians selected by the Mayor. These medical files shall be maintained in the physician's office with a summary report provided to the Mayor whether the employee can or cannot do the job and what, if any, restrictions are necessary to determine any work restructuring or accommodations. Although the physicians make the medical determinations relative to physical/mental requirements of the job and any direct safety threat determinations, their determinations are only recommendations subject to the decision to make reasonable accommodation or not by the Mayor. Only in cases of emergency may an employee begin work prior to the post-employment job offer medical examination, but employment is subject to passing such examination.
2. Reports and records of all physical, psychological and mental exams shall be kept in the offices of the physicians or mental health practitioners with only a summary report provided to the Mayor to be kept in a confidential file apart from the personnel file. Should there be a dispute concerning the exam, or should a supervisor be informed as to the need for reasonable accommodation including job restructuring, the report shall be made available to the necessary legal and supervisory or administrative personnel within the city government.

- E. Fitness For Duty Exam. Employees who become incapacitated due to mental or physical disabilities from performing the essential job functions with or without reasonable accommodation or who pose a direct safety threat shall be subject to a fitness for duty examination. Based on the findings of the exam and other job restructuring factors, the Mayor shall take such action as is necessary for the good of the city.

F. Omnibus Transportation Employee Testing Act of 1991 It is the city of Pocahontas's intent to comply with all regulations and requirements of the Omnibus Transportation Employee Testing Act of 1991. City employees required to have a Commercial Driver's License (CDL) must comply with all regulations in the 1991 Omnibus Transportation Act. The Act requires alcohol and drug testing for all city employees whose jobs require a CDL. These tests include pre-employment, post-accident, random, reasonable suspicion, and return to duty and follow up testing. The city of Pocahontas will not permit an employee who refuses to submit to required testing to perform or continue to perform any activity that requires a CDL. All CDL drivers must obtain from the city of Pocahontas the city's written substance abuse policy. CDL drivers are required to read this material and sign a statement acknowledging that they have received a copy of the city's Substance Abuse Policy.

F. Other Drug and Alcohol Testing

Employees other than those with a CDL are subject to testing for the use of alcohol and illegal substances as outlined in the city's policy on this subject. All employees must obtain from the city of Pocahontas the city's written substance abuse policy. Employees are required to read this material and sign a statement acknowledging that they have received a copy of the city's substance abuse policy.

2.56.02 General employee benefits.

A. Vacations.

1. Police Department.

- a. The head or Chief of each Police Department shall arrange that each employee shall be granted an annual vacation of not less than fifteen (15) working days with full pay. (A.C.A. 14-52-106)
- b. All employees of the Police Department shall accumulate vacation time at the rate of one and one-quarter (1/4) working days for each month of working service.
- c. It is the specific duty of the Police Chief to see that employees of the Police Department actively take all of their vacation time before the end of the calendar year.

2. Fire Department.

- a. The Chief of each Fire Department shall so arrange that each employee shall be granted an annual vacation of not less than fifteen (15) days with full pay. (A.C.A. 14-53-107)
- b. All employees of the Fire Department shall accumulate vacation time at the rate of one and one-quarter (1/4) calendar days for each month of working service. The Chief shall require all employees to take their vacations in increments of five (5) or more consecutive days.

B. Vacation Accrual Rate.

Vacation time is granted to all employees who have completed six (6) months of service. Employees hired between January 1st and June 30th are eligible for one (1) week's vacation with pay after completion of six (6) months of service. In the year following the date of hiring, the employee becomes eligible for one (1) additional week of vacation on the employee's anniversary date. Employees hired after June 30th are not eligible for any vacation in that calendar year, but will be eligible for one (1) week's vacation in the following calendar year after completing six (6) months of service.

<u>Years of Service</u>	<u>Vacation</u>
0 - 6 Months	None
1 year but less than 6	10 working days
6 years but less than 15	15 working days

- 2. The amount of personnel off at any one time will be governed by the Supervisor based upon departmental work loads.
- 3. Employees should notify their department heads at least one (1) week in advance of being absent for vacation time.
- 4. If a city holiday occurs during the calendar week in which a vacation period is scheduled for an employee, the employee's vacation should be extended for one (1) additional working day.
- 5. Accrued time will be paid if the employee leaves the employment of the city. Vacations are not cumulative and no more than five (5) days may be carried over six (6) months past the anniversary date without written approval of the Mayor.

- 6. To the extent it differs from the procedure set forth herein, the uniformed employees of the Police and Fire Departments shall accrue vacation days in accordance with the provisions set forth in the relevant Arkansas statutes, if any.
- 7. It should be understood that policies concerning vacation time for non-uniformed employees are simply a suggested method of computing vacation time. This suggested method in no way alters the city of Pocahontas at-will employment policy as described in the Personnel Policy Manual.

C. Holidays and Holiday Pay.

- 1. The appropriation made by the City Council for salaries shall include additional pay for holidays for all agents, servants and employees of the city, including but not limited to uniformed employees, as provided by the laws of the State of Arkansas.

2. Holidays.

New Year's Day	January 1 st
Martin Luther King Jr. Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	First Monday In September
Thanksgiving Day	Fourth Thursday in November
The Day After Thanksgiving	
Christmas Eve	December 24th
Christmas Day	December 25th
Personal Leave Day	At employee's discretion

D. Sick Leave.

1. Police Department

a. Beginning upon the date of full-time employment, law enforcement officers, regardless of their titles, shall accumulate sick leave at the rate of one (1) day per month. (Ord. No. 2017-16, Sec. 1)

b. After the first year of full-time employment, law enforcement officers, regardless of their titles, shall accumulate sick leave at the

rate of twenty (20) working days per year beginning one (1) year after the date of employment. If unused, sick leave shall accumulate to a maximum of sixty (60) days. (A.C.A. 14-52-107) (Ord. No. 2017-16, Sec. 1)

c. If, at the end of his term of service, upon retirement or death, whichever occurs first, any police officer has any unused accumulated sick leave, he shall be paid for this sick leave at the regular rate of pay in effect at the time of retirement or death. Payment for unused sick leave in the case of a police officer, upon retirement or death, shall not exceed sixty (60) days' salary. (A.C.A. 14-52-107)

d. The city may pass an ordinance allowing payment for up to ninety (90) days of unused sick leave. A.C.A. 14-52-107 (c)

2. Fire Department.

a. Beginning upon the date of full-time employment, firefighters shall accumulate sick leave at the rate of one (1) day per month. (Ord. No. 2017-16, Sec. 1)

b. After the first year of full-time employment, firefighters shall accumulate sick leave at the rate of twenty (20) working days per year beginning one (1) year after the date of employment. If unused, sick leave shall accumulate to a maximum of sixty (60) days. (A.C.A. 14-53-108) (Ord. No. 2017-16, Sec. 1)

c. If, at the end of his term of service, upon retirement or death, whichever occurs first, any firefighter has unused accumulated sick leave, he shall be paid for this sick leave at the regular rate of pay in effect at the time of retirement or death. Payment for unused sick leave will not be made when the firefighter's employment ends for any reason other than death or retirement.

d. Payment for unused sick leave in the case of a firefighter, upon retirement or death, shall not exceed three (3) months' salary.

e. The city may by ordinance, authorize a greater amount not to exceed four and one-half month's salary. (A.C.A. 14-53-108)

That the City Council does hereby ratify and approve each and every action undertaken by the Mayor and City Clerk on behalf of the City of Pocahontas in connection with the accrual of sick leave by full-time employees of the Police Department and Fire Department; all previous actions by the Mayor and City Clerk regarding the payment of sick leave are hereby acknowledged and approved. (Ord. No. 2017-16, Sec. 5)

3. Non-uniformed employees.

- a. The city of Pocahontas recognizes that inability to work because of illness or injury may cause economic hardships. For this reason, the city of Pocahontas provides paid sick leave to full-time employees. Eligible employees accrue sick leave at the rate of one and two-thirds (1 2/3) working days per month.
- b. Any sick leave days accumulated which are not used in any calendar year may be carried over as accumulated sick leave days for the succeeding calendar year up to a maximum of sixty (60) days.
- c. An employee may be eligible for sick leave days for the following reasons:
 - (1) Personal illness or physical incapacity;
 - (2) Quarantine of an employee by a physician or health officer;
 - (3) Illness in the immediate family which would require the employee to take care of the family member(s); or
 - (4) Medical, dental and optical visits.
- d. An employee who is unable to report for work due to one of the previously listed sick leave reasons shall report the reason for his absence to the employee's supervisor or some other person acting for the employee's supervisor within two (2) hours from the time the employee is expected to report for work. Sick leave with pay may not be allowed unless such report has been made as aforementioned.
- e. Employees who are absent more than three (3) consecutive days due to unconfirmed illness may be required by the supervisor or department head to submit a physician's statement.
- f. Absence for part of a day that is chargeable to sick leave in accordance with these provisions shall be deducted from accrued leave in amounts of not less than one-half (1/2) day increments. An employee who uses all of his or her accrued sick leave days shall thereafter be placed on an inactive, without pay status.

- g. An employee may use earned sick leave while receiving workers' compensation benefits only to the extent that the leave augments the employee's workers' compensation benefit to the amount equal to the employee's regular rate of pay. An employee may use sick leave in this fashion for a maximum of six months.
- h. Non-uniformed employees will not be paid for accrued sick days upon termination of employment with the city.

E. Funeral or Bereavement Leave.

- 1. Funeral leave with pay up to a maximum of three (3) calendar days shall be granted to all city employees in cases of death or in the circumstances of death in the immediate family only.
- 2. Immediate Family shall include mother, father, brother, sister, son, daughter, grandparents, son-in-law, daughter-in-law, spouse, spouse's immediate family or those relatives who live in the employee's household including "step" relatives.
- 3. Travel time may be granted upon prior approval of the Mayor in addition to the three (3) days where travel time of more than eight (8) hours is necessary.
- 4. The Mayor may grant funeral leave of not more than one (1) day for an employee to be a pallbearer or attend a funeral of someone not within the immediate family.

F. Maternity Leave. Employees affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes as persons disabled for non-pregnancy-related reasons. Therefore, accrued sick leave and vacation leave, if representative of the employee, will be granted for maternity use after which leave without pay must be used.

G. Uniformed Services

- 1. Certain rights to re-employment after service in the uniformed services, as well as provisions relating to pension and health benefits are established in the Uniformed Services Employment and Re-employment Rights Act of 1994, 38 U.S.C. 4301 et seq., and in A.C.A. 21-4-102. It is the city's policy to honor and comply with the provisions of those statutes.

2. In addition, employees who are members of a military service organization or National Guard unit shall be entitled to a military leave of fifteen (15) days with pay plus necessary travel time. (A.C.A. 21-4-102).

H. Family Medical Leave

1. The Family Medical Leave Act (FMLA) of 1993 requires cities with fifty (50) or more employees to offer up to twelve (12) weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. Eligible city employees may take up to twelve (12) weeks of unpaid leave for the following reasons:
 - a. The birth and care of the employee's child;
 - b. The placement of a child into an employee's family by adoption or by foster-care arrangement;
 - c. The care of an immediate family member (spouse, child or parent) who has a serious health condition; and
 - d. The inability of a city employee to work because of a serious health condition which renders the employee unable to perform the essential functions of his or her job.
2. The Federal Act requires that the city maintain the employee's health coverage under any group plan during the time the employee is on FMLA leave. To be eligible for the FMLA benefits employees must:
 - a. Be employed by the city for at least one year;
 - b. Have worked 1250 hours over the previous twelve (12) months preceding the leave request.
3. City employees must use vacation or accrued leave before FMLA leave will be granted. City employees are required to provide advance leave notice in writing, to the employee's supervisor (at least 30 days) when leave is foreseeable (such as childbirth, adoption or planned medical treatment, or as early as possible if the leave taken is not foreseeable 30 days in advance). Depending on each individual situation, the city may require a medical certification to support a request for FMLA leave because of a serious health condition and require a fitness for duty report to return to work.
4. The city understands that upon return from FMLA leave, most employees must be restored to their original or equivalent position with equivalent pay, benefits and other employment terms. Furthermore, the use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

- H. Court Duty Leave. Employees will be granted leave with pay for witness or jury duty. Employees are also permitted to retain the allowance for services from the court for such service. To qualify for jury or witness duty leave, employees must submit to the Mayor a copy of the summons or other relevant court related paperwork as early as possible upon receipt thereof. In addition, proof of service must be submitted to the employee's supervisor when the employee's period of jury or witness duty is completed.

Firefighters are no longer exempt from jury duty. The statute providing for exemption 14-53-103 was repealed in 1997.

- I. Miscellaneous Leave. The attendance of employees at seminars and training programs is considered part of their continuing professional development. Attendance at these meetings is to be pre-approved by Mayor. In the event employees are required to attend these meetings at a location requiring an overnight stay or travel time in excess of the employee's normal work day, overtime will not be paid. However, the city will pay all reasonable out-of-pocket expenses for lodging, travel costs, meals etc. pursuant to its regular expense policy.

- J. Employee Health Benefits. The city of Pocahontas provides a group health plan for all its full-time employees. Detailed information on the policy and coverage should be given to the employee when the employee is hired. Additional information may be obtained from the Mayor's office.

1. Occupational Injuries. All employees of the city are covered under the Arkansas State Workers' Compensation Law. Any employee incurring an "on-the-job" injury should immediately notify his supervisor, who will arrange for appropriate medical treatment and prepare the necessary reports required in order for the employee to be compensated. Rules and regulations concerning Workers' Compensation have been posted on the department bulletin boards.

2. Accidental Injury. If any full-time employee is involved in an accident (not job connected) and the injury sustained in such accident necessitates that the employee be absent from work, the employee shall be entitled to receive pay at a regular salary for the number of days accumulated sick leave credited to that employee at the time the accident occurred.

2.56.03 Matters affecting the status of employees.

A. Attendance. Employees shall be in attendance at their work stations in accordance with the rules and regulations established by the Mayor and Council. All departments shall keep daily attendance records of all employees which shall be reported to the Mayor on the form and on the date specified by the Mayor and Council.

B. Work Hours.

1. Except for police officers and firefighters, work hours for all employees shall be forty (40) hours per week which begin each Friday at 5:00 p.m. Work hours for police and fire employees shall be in accordance with state statutes and departmental regulations.
2. The city reserves the right to adjust and change hours of work, days of work and schedules in order to fulfill its responsibility to the citizens of the city of Pocahontas. In the event of an emergency, previously scheduled hours of work, days of work and work arrangements may be altered at the discretion of the department head. Changes in work schedules will be announced as far in advance as practicable.
3. Whenever possible, employee work schedules shall provide a rest period (break) during each four-hour work shift. Reasonable time off for a meal will be provided.

C. Overtime Pay.

1. Overtime will be paid for hours worked in excess of forty hours per week. The rate of pay for overtime shall be one and one-half ($\frac{1}{2}$) the employee's normal hourly rate.
2. Upon the direction or approval of the Mayor, compensation for overtime may be made in the form of compensatory leave to the employee. The overtime record of the Mayor shall be final with respect to the number of compensatory leave days earned of an employee. Compensatory leave must be taken within the calendar year earned and should be scheduled in the same manner required for vacation days.

D. Vacancies and Promotions.

1. It is the intent of the city of Pocahontas to hire and promote the most qualified applicant for all vacant positions. To give the employees of the city of Pocahontas an opportunity to apply for job vacancies, announcements of job openings will be posted on employee bulletin boards.
2. In accordance with E.E.O.C. (Equal Employment Opportunity Commission) guidelines and policies, notice of job vacancies will be sent to the appropriate news media and employment agencies throughout the relevant labor market. A job description of each vacant position will be provided upon request.
3. The final decision regarding promotions shall be made by the Mayor upon recommendation of the Supervisor.

E. Training. The city of Pocahontas is committed to continuing and on-going training for all employees. However, in addition to formal training provided by the city for various positions, each employee has the responsibility of ascertaining for himself that he is possessed with sufficient training to enable him to perform his job. In the event that the employee feels that additional training is needed, he should notify his department head. Expenses incurred in on-the-job training should be assumed by the city.

F. Performance Evaluations.

1. To ensure that employees perform their jobs to the best of their ability, it is important that they be recognized for good performance and that they receive appropriate suggestions for improvement when necessary.
2. Consistent with this goal, an employee's performance will be evaluated by the supervisors on an on-going basis. Final evaluations are normally done annually.
3. All written performance reviews will be based on the employee's overall performance in relation to the employee's job responsibilities and will also take into account the employee's conduct, demeanor and record of attendance along with any tardiness. In addition to regular performance evaluations described above, special written performance evaluations may be conducted by the employee's supervisor at any time to advise the employee of his current level of performance and where appropriate, the existence of performance or disciplinary problems and solutions.

4. It should be noted that a performance evaluation does not necessarily mean a salary adjustment.

G. Job Safety.

1. Safety is largely the use of good judgment and the practice of good work habits. It requires good judgment to know the safe way and it requires good work habits to continue the safe way. If an employee is not positive of which way is the safest, he should ask his supervisor or department head for the correct method.
2. Unsafe conduct is misconduct. The following safety rules should always be observed:
 - a. Follow all departmental safety rules;
 - b. Use all mechanical safeguards on or for employee equipment;
 - c. Immediately cease using and report any faulty or potentially faulty equipment to the supervisor or department head;
 - d. Immediately report any unsafe or potentially unsafe working condition or equipment;
 - e. Immediately report any and every accident to the supervisor or department head.

H. Refusal To Work. A city employee's commitment is to public service. Any work stoppage, slowdown, strike or other intentional interruption of the operations of the city shall cause the employee to forfeit his or her employment and result in the termination of the employee from the city of Pocahontas.

I. Resignation/Termination.

1. Employees desiring to terminate their employment relationship with the city of Pocahontas are urged (but not required) to notify the city at least two (2) weeks in advance of their intended termination. Such notice should preferably be given in writing to the employee's department head or supervisor. Proper notice generally allows the city sufficient time to calculate all final accrued monies due the employee for his or her final paycheck. Without adequate notice however, the employee may have to wait until after the end of the next normal pay period in order to receive such payments.
2. Employees who plan to retire are urged to provide the city with a minimum of two (2) months notice. This will allow ample time for the processing of appropriate pension forms to ensure that any retirement benefits to which an employee may be entitled to commence in a timely manner.

3. As mentioned elsewhere in this Handbook, all employment relationships with the city of Pocahontas are on an at-will basis. Thus, although the city of Pocahontas hopes that relationships with employees are long term and mutually rewarding, the city reserves the right to terminate the employment relationship of any employee at any time.

2.56.04 Standards of Conduct.

A. Conduct Towards The Public.

1. Employees of the city of Pocahontas shall at all times be civil, orderly and courteous in their conduct and demeanor. In each contact with the public, an employee must be aware that his appearance, actions and statements are in essence those of the city.
2. In dealing with the public, each employee must attempt to make his conduct one which inspires respect for both himself and the city and further, one which generates the cooperation and approval of the public.
3. Not everyone an employee may meet in the course of his or her duties will be courteous. However, an employee should treat the public as he would like to be treated . . . with courtesy, patience, respect and understanding. This attitude or approach to public service cannot be overemphasized.
4. When an employee is uncertain of the correct response to an inquiry from the public, he or she should refer the inquiry to the individual or the department which can provide the most satisfactory response to the inquiry. It is better to admit lack of knowledge than to provide erroneous information.

B. Uniforms and Personal Appearance.

1. Uniforms or uniform allowance will be provided to personnel of certain departments as authorized by the Council. Personnel who are provided uniforms or uniform allowance shall wear uniforms at all times while on duty. Uniforms shall be kept as neat and presentable as working conditions permit.
2. Employees not required to wear uniforms should dress in appropriate professional departmental attire. If an employee is not sure what is appropriate attire, then the employee should check with his supervisor or department head.

C. Unlawful Harassment.

1. The city of Pocahontas expressly prohibits its officials or employees from engaging in any form of unlawful employee harassment based on race, religion, color, sex, national origin, age, disability or status as a veteran or special disabled veteran.
2. Harassment is any annoying, persistent act or actions that single out an employee, to that employee's objection or detriment, because of race, sex, religion, national origin, age (over 40) or disability. Harassment may include any of the following:
 - a. Verbal abuse or ridicule;
 - b. Interference with an 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. Intimate physical contact;
 - f. Making offensive sexual, racial or other derogatory innuendoes;
 - g. Demanding favors (sexual or otherwise), explicitly or implicitly, as a condition of employment, promotion, transfer or any other term or condition of employment.
3. It is every employee's responsibility to insure that his or 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 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. Any time 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. The city of Pocahontas 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.

D. Guidelines For Appropriate Conduct.

1. An employee of the city of Pocahontas is expected to accept certain responsibilities, adhere to acceptable principals in matters of personal conduct and exhibit a high degree of personal integrity at all times. This not only involves a sincere respect for the rights and feelings of others, but also demands that both while at work and in their personal life, an employee refrain from behavior that might be harmful to the employee, his co-workers, the citizens and/or the city.
2. Whether an employee is on duty or off duty, his or her conduct reflects on the city. An employee is encouraged to observe the highest standards of professionalism at all times.
3. Types of behavior and conduct that the city considers inappropriate include, but are not limited to the following:
 - a. Falsifying employment or other city records;
 - b. Violating any city non-discrimination and/or harassment policy;
 - c. Soliciting or accepting gratuities from citizens;
 - d. Excessive absenteeism or tardiness;
 - e. Excessive, unnecessary or unauthorized use of city property;
 - f. Reporting to work intoxicated or under the influence of non-prescribed drugs and illegal manufacture, possession, use, sale, distribution or transportation of drugs;
 - g. Buying or using alcoholic beverages while on city property or using alcoholic beverages while engaged in city business on city premises, except where authorized;
 - h. Fighting or using obscene, abusive or threatening language or gestures;
 - i. Theft of property from co-workers, citizens or the city;
 - j. Unauthorized possession of firearms on city premises or while on city business;
 - k. Disregarding safety or security regulations;
 - l. Insubordination;
 - m. Neglect or carelessness resulting in damage to city property or equipment.
4. Should an employee's performance, work habits, overall attitude, conduct or demeanor become unsatisfactory and in violation of either of the above referenced items or any other city policies, rules or regulations, an employee will be subject to disciplinary action up to and including dismissal.

E. Absenteeism and Tardiness.

3. The city of Pocahontas expects all of its employees to be at work on time and on a regular basis. When employees are unnecessarily absent or late, it is expensive, disruptive and places an unnecessary burden on fellow employees, supervisors, city government as a whole and the taxpayers who receive city services. Should an employee be unable to report to work on time because of illness or personal emergency, that employee should give "proper notice" to his or her supervisor. Unexcused absences and tardiness could result in disciplinary action.
4. "Proper notice" is defined by the city to be notice in advance of the time an employee should report for work or no later than one (1) hour thereafter if advance notice is impossible.
5. An absence of an employee from duty, including any absence of one (1) day or part thereof, (other than an absence authorized by this personnel handbook or by law) that is not authorized in advance by the Department Head or the employee's supervisor should be deemed absence without leave. Such absence shall be without pay.

F. Inclement Weather.

1. In exceptional circumstances beyond the employee's control, such as weather causing hazardous conditions, the employee is required to contact his or her supervisor for instructions regarding job assignments for that particular work day. If an employee's department is open for business, the employee is expected to report for work. However, if, in the employee's opinion, the conditions are too hazardous for him or her to get to work safely, he or she will have the option of taking the time off as a vacation day. Regardless of the situation, an employee is expected to give his or her supervisor "proper notice" if he or she is unable to report for work.

G. Outside Employment or Moonlighting.

1. If an employee is considering additional employment, he or she should discuss the additional employment with his or her department head or supervisor for approval.
2. If as an employee of the city, an employee participates in additional employment, it must not interfere with the proper and effective performance of his or her job with the city. An employee's outside employment must not be of a nature that adversely affects the image of the city, resulting in embarrassment, legitimate and reasonable criticism or of

a type that may be construed by the public to be an official act of the city or in any way violate these policies. City uniforms shall not be worn during outside employment unless approved in advance by the Mayor.

H. Political Activity. City employees are encouraged to exercise their legal right to vote and, if necessary, reasonable time will be granted for that purpose.

I. Outside Compensation.

1. No reward, gift or other form of remuneration in addition to regular compensation shall be received from any source by employees of the city for the performance of their duties as employees of the city. If a reward, gift or other form of remuneration is made available to any employee, it shall be credited to a designated employee fund with approval of the Mayor.

J. Use of Narcotics, Alcohol and Tobacco.

1. Employees of the city of Pocahontas shall not use habit-forming drugs, narcotics or controlled substances unless such drugs are properly prescribed by a physician.
2. The consumption of alcohol or other intoxicants is prohibited while an employee is on duty. Employees are not to consume intoxicants while off duty to such a degree that it interferes with or impairs the performance of his or her duties. Employees involved in any unauthorized use, possession, transfer, sale, manufacture, distribution, purchase or presence of drugs, alcohol or drug paraphernalia on city property or being reported to work with detectable levels of illegal drugs or alcohol will be subject to disciplinary action including termination.
3. Each department head or supervisor may establish smoking policies for his or her departmental employees.

K. Disciplinary Action.

1. Should an employee's performance, work habits, overall attitude, conduct or demeanor become unsatisfactory based on violations listed in Guidelines For Appropriate Conduct or any other city policies, rules or regulations, the employee will be subject to disciplinary action up to and including dismissal.
2. Disciplinary action may be any of the several forms listed below:

- a. Warning or Reprimand. A reprimand is action used to alert the employee that his or her performance is not satisfactory or to call attention to the employee's violation of employment rules and/or regulations. City employees may be officially reprimanded orally or in writing.
- b. Suspension. Suspension involves the removal of an employee from his or her job. An employee may be suspended with or without pay.
- c. Demotion. A demotion is an action that places the employee in a position of less responsibility and less pay.
- d. Termination. This type of disciplinary action is a removal of an employee from city employment.

2.56.05 Miscellaneous information.

- A. Policy Statement. The city of Pocahontas possesses the sole right to operate and manage the affairs of the city.
- B. Severability.
 - 1. Should any of the provisions of these employee policies and procedures be determined to be contrary to federal, state, or local law, the remaining provisions of these employee policies and procedures shall remain in full force and effect.
 - 2. To the extent that any state law provides additional or different benefits or rights to employees, the provisions of these employee policies and procedures shall be deemed to include those statements of law.
- C. Departmental Policies and Procedures. Each department head is authorized to adopt lawful oral or written policies governing the day-to-day operations of that department. Departmental policies, if in conflict with these employee policies and procedures, shall be governed by these employee policies and procedures.
- D. Change of Address. It is important that if an employee changes his or her home address or telephone number to notify his or her department head of this change so that personnel files may be kept up to date. This is important in case the city must mail the employee any information that it feels the employee will need, such as "withholding" statements for the employee's income taxes. Also, if there is any change in the employee's marital status, the employee should report it to his or her department head.

CHAPTER 2.60

POLICY FOR A DRUG-FREE WORKPLACE

Sections:

2.60.01	Purpose
2.60.02	Policy statement
2.60.03	Safety/security-sensitive position defined
2.60.04	Drug-free awareness program/education and training
2.60.05	Prohibited substances/legal drugs/unauthorized items
2.60.06	Use of alcohol and drugs/prohibited conduct
2.60.07	Drug/alcohol testing of all employees
2.60.08	Testing of employees in safety/security-sensitive positions
2.60.09	Disciplinary action
2.60.10	Employment status pending receipt of test results
2.60.11	Voluntary drug and alcohol rehabilitation
2.60.12	Coverage

2.60.01 Purpose 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. (Ord. No. 2010-5, Sec. 1.)

2.60.02 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. (Ord. No. 2010-5, Sec. 2.)

2.60.03 Safety/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. Lifeguards.
7. 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. (Ord. No. 2010-5, Sec. 3.)

2.60.04 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:

- A. The dangers of drug and alcohol abuse in the workplace;
- B. The city's policy of maintaining a drug and alcohol free workplace;
- C. The availability of drug and alcohol treatment, counseling and rehabilitation programs; and

- D. 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 sixty minutes of training on alcohol misuse and sixty minutes of training on drug use. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and drug use. (Ord. No. 2010-5, Sec. 4.)

2.60.05 Prohibited substances/legal drugs/unauthorized items

- A. Prohibited substances Alcoholic beverages and drugs are considered to be prohibited substances in the workplace. For purpose 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, A.C.A. 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. (Ord. No. 2010-5, Sec. 5.)

2.60.06 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):

- A. 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.
- B. Employees shall not consume alcohol while on duty.
- C. Employees required to undergo post-accident testing shall not use alcohol for eight hours following the accident, or until they undergo a post-accident alcohol test.
- D. Employees shall submit to all authorized drug or alcohol tests.
- E. 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 authorized alcohol test shall be removed from duty, and may not return to duty until the start of the employee's next regularly scheduled shift, but not less than twenty-four hours following administration of the test.

The foregoing rules shall apply to all employees and shall apply while on duty, during periods when they are on breaks or at lunch, or not performing safety or security-sensitive functions. (Ord. No. 2010-5, Sec. 6.)

2.60.07 Drug/alcohol testing of all employees Employees (and applicants) covered by this policy shall be required to submit to urine testing for use of prohibited drugs and/or Breathalyzer alcohol testing in the following circumstances:

- A. When the city has reasonable suspicion that an employee has violated any of the above prohibitions regarding use of alcohol or drugs. For purposes of this rule, reasonable suspicion shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The required observations must be made by a supervisor or city official or employee who is trained in detecting the signs and symptoms of misuse of alcohol and drug use.
- B. Return-to-duty testing is required after an employee has engaged in any of the above prohibitions concerning use of alcohol or drugs, unless the violation results in termination.

- C. As part of a pre-employment physical examination after a conditional job offer has been made, a fitness-for-duty physical examination, or any other lawful required periodic physical examination. Non-safety and non-security sensitive positions will not be required to undergo a pre-employment drug or alcohol test unless the applicant is otherwise required to undergo a pre-employment physical examination after a conditional job offer has been extended to the employee.
- D. When the city management has a reasonable suspicion based on observations or credible information submitted to the city, that the employee is currently using, impaired by or under the influence of drugs or alcohol.
- E. When an employee suffers an on-the-job injury or following a serious or potentially serious accident or incident in which safety precautions were violated, equipment or property was damaged, an employee or other person was injured, or careless acts were performed by the employee. Such testing will be required of non-safety sensitive employees only when such factors, when taken alone or in combination with other factors, give rise to reasonable suspicion that the employee may be under the influence of drugs or alcohol.
- F. As part of a return-to-duty or follow-up drug and/or alcohol test required under an agreement allowing an employee to return to duty following disciplinary action for a positive drug and/or alcohol test, or as the result of a condition of continued employment or reinstatement in conjunction with or following completion of an approved drug and/or alcohol treatment, counseling or rehabilitation program.

In order to return to duty, an employee who has had a positive drug or alcohol test (i.e. a verified positive drug test or an alcohol test indicating an alcohol concentration of 0.04 or greater) must have a verified negative drug test and/or an alcohol test indicating an alcohol concentration of less than 0.02, and be evaluated and released by a substance abuse professional (SAP). In addition, the employee shall be subject to follow-up testing for a period not to exceed twenty-four (24) months from the date of the employee's return to duty, in accordance with the SAP's recommendations. (The city also reserves the right to require return-to-duty and follow-up testing of an employee who has an alcohol test indicating an alcohol concentration of 0.02 or greater, but less than 0.04, based on an SAP's recommendations.)

- G. When any prohibited drug or alcoholic beverage, is found in an employee's possession.
- H. When the laboratory values in any authorized drug test indicated the need for additional testing, as determined by the Medical Review Officer (MRO), or where any authorized drug test must be canceled due to a collection, chain of custody or other procedural problem. (Ord. No. 2010-5, Sec. 7.)

2.60.08 Testing of employees in safety/security-sensitive positions Employees in (and applicants for) safety and security-sensitive positions shall be required to submit to urine testing for use of prohibited drugs and/or Breathalyzer alcohol testing in the foregoing and in the following circumstances:

- A. When a safety-sensitive employee is involved in an accident involving a motor vehicle on a public road, and the employee's position is safety-sensitive because it involves driving a motor vehicle.
- B. Random testing for drugs (but not alcohol) will be conducted. In order to treat all employees as equally as possible, and to maintain consistency in the administration of its efforts to maintain a drug-free workplace, random testing under this policy will be governed by 49 U.S.C. 31306 and implementing regulations to the extent that it is lawful and feasible to do so. Further guidance must be found in "The Omnibus Transportation Employee Testing Act of 1991 – Steps to Compliance for Arkansas Municipalities," published by the Arkansas Municipal League. (Ord. No. 2010-5, Sec. 8.)

2.60.09 Disciplinary action

- A. Employees may be subject to disciplinary action, up to and including discharge, for any of the following infractions:
 - 1. Refusal to submit to an authorized drug or alcohol test. Refusal to submit to testing means that the employee fails to provide an adequate urine or breath sample for testing without a valid medical explanation after he/she has received notice of the requirement to be tested, or engages in conduct that clearly obstructs the testing process. Refusal to submit to testing includes, but is not limited to, refusal to execute any required consent forms, refusal to cooperate regarding the collection of samples, and/or submission or attempted submission of an adulterated or substituted urine sample.
 - 2. Drinking alcoholic beverages or using drugs while on duty, on city property, in city vehicles, during breaks or at lunch.
 - 3. Unlawful manufacture, distribution, dispensation, possession, concealment or sale of any prohibited substance, including an alcoholic beverage, while on duty, on city property, in city vehicles, during breaks or at lunch.
 - 4. Any criminal drug statue conviction and/or failure to notify the city of s such conviction with five (5) days.

5. Refusal to cooperate in a search.
6. Having an alcohol concentration of .04% or greater in any authorized alcohol test.
7. Testing positive for drugs and/or their metabolites in any authorized drug test.

Although the foregoing infractions will ordinarily result in discharge regardless of the employee's position, the city reserves the right to consider extenuating circumstances and impose lesser discipline when such action is deemed appropriate.

- B. In order to be re-employed following completion of a suspension for a positive drug or alcohol test, the employee must undergo and pass a return to duty drug and/or alcohol test and be evaluated and released by an SAP.

The city will schedule the return to duty drug and/or alcohol test and the evaluation by an SAP to avoid any lost work time beyond the period of the suspension. The employee will remain on disciplinary suspension, without pay, until the city has received written notice that the employee has passed the return to duty drug test (and/or notice from the collection site that the employee has an alcohol concentration of less than 0.02 in the return to duty alcohol test) and written notice from an SAP that the employee has been released to return to duty. However, the employee may use accumulated leave time between the end of the original suspension and being released to return to work.

If the employee tests positive for any drug or has a alcohol concentration of 0.02 or greater in any subsequent test, he/she shall be subject to discharge.

- C. Rehabilitation and addition testing In cases where an employee receives disciplinary action other than discharge for a drug and/or alcohol related infraction, the following procedures shall also apply:

1. The city may require the employee to participate in an approved treatment, counseling or rehabilitation program for drug and/or abuse at the time discipline is imposed, based on the recommendations of a SAP.
2. If the employee is required to enroll in such a program, his/her reinstatement or continued employment shall be contingent upon successful completion of the program and remaining drug and alcohol free for its duration.

The employee must submit to any drug and/or alcohol testing administered as part of the program and provide the city with the results of such tests. The employee must also provide the city with progress reports from his/her therapist, or the agency running the program, on at least a monthly basis. (Failure to provide such reports or the results of such tests may result in discipline up to and including termination.)

3. An employee who has been identified as needing assistance in resolving problems associated with use of drugs and/or misuse of alcohol may be administered unannounced follow-up drug and/or alcohol tests for a period of up to twenty-four (24) months. (Ord. No. 2010-5, Sec. 9.)

2.60.10 Employment status pending receipt of test results In addition to appropriate disciplinary measures, including suspension, which may be taken in response to the incident or course of conduct which gave rise to the test, the city reserves the right to decide whether the incident or course of conduct prompting the test is of such a nature that the employee should not be put back to work until the test results are received. If such a decision is made, the employee will be suspended without pay. Where the test result is negative, the employee will be reinstated with back pay, provided the employee has not been given an appropriate disciplinary suspension for violation of another work rule which also covers the time missed waiting for the test results. (Ord. No. 2010-5, Sec. 10.)

2.60.11 Voluntary drug and alcohol rehabilitation If an employee who is not otherwise subject to disciplinary action for use of drugs and/or alcohol voluntarily admits that he/she has drug and/or alcohol abuse problem, the Mayor or City Manager (or his/her designee) will meet with the employee to discuss the various treatment, counseling and rehabilitation options that are available. For purposes of this section, an employee's admission to having a drug and/or alcohol abuse problem will not be defined as voluntary if its is made after the employee learns that he or she has been selected for a random drug test.

These option may include allowing the employee to continue working while receiving out-patient treatment, counseling or rehabilitation in an approved drug and/or alcohol abuse program, or placing the employee on a medical leave of absence while he/she is receiving treatment, counseling or rehabilitation in an approved inpatient or outpatient drug and/or alcohol abuse program.

When an employee voluntarily admits that he/she has a drug and/or alcohol abuse problem, the city shall have the right to require the employee to be evaluated by an SAP and/or submit to drug and/or alcohol testing prior to deciding what is appropriate. No disciplinary action will be taken by the city against an employee who voluntarily admits that he/she has a drug and/or alcohol abuse problem in the situation described above. However, the city shall have the following right in such a situation:

- A. The employee may be required to enroll in and successfully complete an approved inpatient or outpatient drug and/or alcohol abuse program and remain drug and alcohol free for its duration as a condition of reinstatement or continued employment. However, the city will not be responsible for financial obligations associated with treatment.
- B. If the employee is required to enroll in such a program, he/she must submit to any drug and/or alcohol tests administered as part of the program and provide the city with the results of such tests. The employee must also provide the city with progress reports from his/her therapist or the agency running the program, on at least a monthly basis. (Failure to provide such reports or the results of such tests will result in discipline up to and including termination.)
- C. The employee shall be required to agree to be subject to unannounced follow-up drug and/or alcohol tests, at the city's discretion, for a period of up to twenty-four (24) months. (Ord. No. 2010-5, Sec. 11.)

2.60.12 Coverage The city will not pay for any approved treatment, counseling or rehabilitation program for drug and/or alcohol abuse. The employee is responsible for any cost for said treatment, counseling or rehabilitation program not covered by health insurance. (Ord. No. 2010-5, Sec. 12.)

CHAPTER 2.64

REGIONAL INTERMODAL FACILITIES AUTHORITY

Sections:

- 2.64.01 Findings
- 2.64.02 Authority
- 2.64.03 Agreement
- 2.64.04 Further action
- 2.64.05 Ratification of prior actions
- 2.64.06 Filing

2.64.01 Findings

- A. The City Council has heretofore found and determined and hereby finds and determines that it is in the best interest of the City to join with Lawrence County,

Randolph County, Clay County, the city of Hoxie, the city of Corning and the city of Walnut Ridge in the formation of a regional intermodal facilities authority for the purpose of acquiring, constructing, equipping, maintaining and operating regional intermodal facilities and such other facilities as authorized by the Act, as now or hereafter amended.

- B. The Agreement for the formation of the regional intermodal facilities authority provides that the authority shall have no independent right or power to levy taxes to fund its operations or to pay its debts except taxes levied upon and collected from shippers, transporters or users loading or unloading freight, commerce or passengers at a terminal or other facilities of the authority.
- C. The Agreement for the formation of the regional intermodal facilities authority provides that the obligations of the authority shall be payable from and secured by revenues, property and other resources of the authority and shall not constitute a general or limited obligation of the City or any of the other governmental entities that are a party to the Agreement.
- D. The City has heretofore been participating with the local governmental entities identified herein as a regional intermodal facilities pursuant to the Agreement hereinafter authorized. (Ord. No. 2010-10, Sec. 1.)

2.64.02 Authority The formation of the regional intermodal facilities authority pursuant to the Act known as the “Northeast Arkansas Regional Intermodal Facilities Authority” (the “Authority”), and the City’s participation in the same, are hereby ratified, approved, confirmed and authorized. (Ord. No. 2010-10, Sec. 2.)

2.64.03 Agreement There is hereby authorized the execution and delivery of an Agreement by and among the city, Lawrence County, Randolph County, Clay County, the city of Hoxie, the city of Corning and the city of Walnut Ridge “(the “Agreement””, and the Mayor and City Clerk are hereby authorized to execute and deliver the Agreement for and on behalf of the City. The Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the other parties thereto in order to complete the Agreement in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval. (Ord. No. 2010-10, Sec. 3.)

2.64.04 Further action The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Agreement and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by this ordinance. The Mayor and City Clerk are hereby further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof. (Ord. No. 2010-10, Sec. 4.)

2.64.05 Ratification of prior actions All action heretofore taken by the Authority, including particularly, without limitation, grant agreements and contracts, are hereby approved, ratified and confirmed. (Ord. No. 2010-10, Sec. 5.)

2.64.06 Filing The City Clerk is hereby authorized and directed to file in the office of the City Clerk, as a part of the minutes of the meeting at which this ordinance is adopted, for inspection by any interested person a copy of the Agreement, and such document shall be on file for inspection by any interested person. (Ord. No. 2010-10, Sec. 6.)

CHAPTER 2.68

INDEPENDENT CANDIDATES

Sections:

- 2.68.01 Filing deadline
- 2.68.02 Publication

2.68.01 Filing deadline The City Council of the city of Pocahontas hereby authorizes the establishment of a filing deadline for independent or nonpartisan candidates seeking election for the city of Pocahontas municipal offices for no earlier than twenty (20) days prior to the preferential primary election and no later than noon on the day before the preferential primary election. (Ord. No. 2013-12, Sec. 1.)

2.68.02 Publication The City Clerk is hereby directed to publish this ordinance once a week for two (2) consecutive weeks immediately following adoption of said ordinance in a newspaper having a general circulation in the city of Pocahontas. (Ord. No. 2013-12, Sec. 2.)

CHAPTER 2.72

COMPUTER USE AND COMMUNICATIONS POLICY

Sections:

- 2.72.01 Adopted

2.72.01 Adopted The Computer Use Policy and the Communications and Social Media Policy, which are attached hereto and made a part hereof, are hereby adopted. (Ord. No. 2013-15, Sec. 1.)