

BILL NO.: 5085

ORDINANCE NO.: _____

Introduced by: Acting City Manager April Walton

**AN ORDINANCE AMENDING THE WORKPLACE MARIJUANA AND
CONTROLLED SUBSTANCES POLICY FOR THE EMPLOYEE HANDBOOK
OF PERSONNEL RULES AND REGULATIONS, POLICIES, AND BENEFITS**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY,
MISSOURI, AS FOLLOWS:**

Section 1. The Council of the City of Berkeley, Missouri hereby adopts the attached Workplace Marijuana and Controlled Substances Policy to be amended in the Berkeley Employee Handbook of Personnel Rules and Regulations, Policies, and Benefits.

Section 2. The attached policy is hereby incorporated herein and made a part of this ordinance, as if fully set out herein.

Section 3. This ordinance shall be in full force and effect from and after its passage.

1st Reading this 16th day of June 2025

2nd Reading this _____ day of _____ 2025

3rd Reading, PASSED and APPROVED, this _____ day of _____ 2025

Rita Crawford-Graham, Mayor

ATTEST:

Final Roll Call:

Deanna L. Jones, City Clerk

Councilwoman Holmes	Aye	___	Nay	___	Absent	___	Abstain	___
Councilwoman Williams	Aye	___	Nay	___	Absent	___	Abstain	___
Councilman Hoskins	Aye	___	Nay	___	Absent	___	Abstain	___
Councilwoman Anthony	Aye	___	Nay	___	Absent	___	Abstain	___
Councilman Hindeleh	Aye	___	Nay	___	Absent	___	Abstain	___
Mayor Crawford-Graham	Aye	___	Nay	___	Absent	___	Abstain	___

Approved as to Form:
Felica Ezell-Gillespie, City Attorney

CITY OF BERKELEY, MISSOURI

WORKPLACE CONTROLLED SUBSTANCES POLICY

POLICY STATEMENT

The City of Berkeley is committed to providing safe, dependable, and economical services to its citizens while maintaining safe working conditions for employees through a drug-free workplace. This policy ensures compliance with the Drug Free Work Place Act of 1988, the Omnibus Transportation Employee Testing Act of 1991, and Missouri state laws, including provisions regarding medical marijuana.

PURPOSE

This policy aims to ensure employee fitness for duty and protect both employees and the public from risks posed by substance use in the workplace. We strive to create a work environment free from the effects of alcohol, marijuana, and controlled substances while supporting employees who may need assistance with substance-related issues. This policy also establishes the City's position on marijuana use, including both recreational and medical use as permitted under Missouri law, while maintaining a drug-free workplace environment.

APPLICABILITY

This policy applies to all City of Berkeley employees. Safety-sensitive employees are subject to additional requirements, including random drug and alcohol screening. Safety-sensitive positions include: Law enforcement personnel; Parks and Recreation employees working in aquatics or childcare; Employees requiring a Commercial Driver's License (CDL); and other positions directly affecting public safety.

SCOPE/CONFIDENTIALITY

All drug testing records, and medical information will be maintained confidentially in accordance with HIPAA and applicable laws.

ALCOHOL AND CONTROLLED SUBSTANCES PROHIBITIONS

All employees are prohibited from using, possessing, selling or distributing nonprescribed controlled substances. Further, safety-sensitive employees who perform safety-sensitive functions, including, without limitation, all law enforcement employees, aquatics and childcare employees of the Parks and Recreation Department and employees who are required to possess a commercial driver's license (CDL) license for the operation of a commercial vehicle of the City are prohibited from using, possessing, selling or distributing marijuana. All employees are prohibited from the unauthorized possession of alcohol or marijuana while on duty and the unauthorized possession of illegal controlled substances at any time, whether on or off duty. An employee is prohibited from engaging in any work-related functions:

- While consuming alcohol, marijuana or non-prescribed controlled substances;

- While having a blood alcohol concentration of two one-hundredths (0.02) or greater;
- Within four (4) hours of consuming alcohol, marijuana or non-prescribed controlled substances; and
- After refusing to submit to an alcohol test.

In addition, an employee is prohibited from consuming alcohol, marijuana or taking any non-prescribed controlled substance within eight (8) hours after an accident as specified in this policy. Employees prescribed controlled substances may only engage in work-related functions if they have obtained clearance from their doctor, confirming that the medication will not impair their ability to perform their duties safely.

POLICY

Zero Tolerance

The City maintains a drug-free workplace regardless of the legal status of marijuana under Missouri law. The use, possession, distribution, or being under the influence of marijuana or other controlled substances is strictly prohibited:

- a) During working hours
- b) While on City property
- c) While operating City vehicles or equipment
- d) While representing the City in any official capacity

Legal Marijuana Use (Recreational and Medical)

While Missouri law permits both recreational and medical marijuana use:

- a) Off-duty use of legal marijuana is treated similarly to alcohol use
- b) Employees must report to work free from impairment
- c) Employees in safety-sensitive positions are subject to enhanced scrutiny
- d) Federal law continues to classify marijuana as illegal, and certain positions (CDL drivers, law enforcement) remain subject to federal regulations
- e) The City reserves the right to restrict off-duty use if it impacts job performance, safety, or federal funding requirements

TESTING

The City conducts drug and alcohol testing in these situations:

- a) Pre-employment screening
- b) Random testing for safety-sensitive positions
- c) Reasonable suspicion testing
- d) Post-accident testing
- e) Return-to-duty and follow-up testing

Testing protocols will:

- a) Focus on current impairment rather than historical use
- b) Utilize appropriate testing methods to determine active impairment

- c) Consider observable behavior patterns
- d) Apply consistent standards regardless of whether use is recreational or medical

PROCEDURES

Reasonable Suspicion

Supervisors must document specific observations suggesting impairment, including:

- a) Physical symptoms
- b) Behavioral changes
- c) Performance issues
- d) Safety concerns

TESTING PROTOCOLS

Testing will:

- a) Be conducted by certified laboratories
- b) Follow DOT protocols where applicable
- c) Include appropriate cutoff levels that indicate current impairment
- d) Consider concentration levels that differentiate between active use and residual presence

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Employees must:

- a) Disclose safety concerns related to their use of legal marijuana
- b) Not bring marijuana products to work
- c) Not appear for work under the influence
- d) Understand that legal off-duty use is not protection against on-duty impairment

CONSEQUENCES

Violations may result in:

- a) Immediate removal from duty
- b) Disciplinary action up to termination
- c) Required completion of substance abuse program before return to duty

ACCOMMODATIONS

The City will engage in an interactive process for medical marijuana patients who request reasonable accommodation, provided:

- a) The accommodation does not create undue hardship
- b) The employee can perform essential job functions
- c) Workplace safety is not compromised
- d) Federal compliance is maintained

DEFINITIONS

"Under the influence" means exhibiting specific, articulable symptoms while working that decrease or lessen the employee's performance of their duties.

"Safety-sensitive positions" include, but are not limited to:

- a) Law enforcement
- b) Emergency responders
- c) CDL operators
- d) Heavy machinery operators
- e) Positions involving direct public safety responsibility

UPDATES

This policy will be reviewed annually and updated as needed to reflect changes in applicable laws.