

ORDINANCE NO. 2007-11

AN ORDINANCE ADOPTING THE 2007 EMPLOYEE HANDBOOK AS THE OFFICIAL HANDBOOK OF ALL CITY OF CLINTON EMPLOYEES; REPEALING ALL PRIOR ORDINANCES REGARDING EMPLOYEE POLICIES; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, The City of Clinton has previously abolished its Water and Sewer Commission thereby taking all of the water and sewer employees into the city's payroll; and

WHEREAS, The City of Clinton also had two separate policy manuals, one for the police department and one for all other employees; and

WHEREAS, The City Council desires to adopt one Employee Policy Manual that covers all of the employees of the City of Clinton.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLINTON, ARKANSAS, AS FOLLOWS;

Section 1. The 2007 Clinton Employee Handbook is hereby adopted as the official Employee Handbook for all Clinton City Employees as of the effective date of this Ordinance.

Section 2. All previous Ordinances adopting an employee handbook or making alterations in any employee handbook for any City of Clinton employee are hereby repealed.

Section 3. The uniform treatment of all employees is imperative to employee morale and therefore to the services provided to citizens by those employees. Therefore, an emergency is hereby declared to exist

and this Ordinance shall be effective from and after its passage and publication as provided by law.

PASSED: September 13, 2007



Roger Rorie
Roger Rorie, Mayor

ATTEST:

Merl Eoff
Merl Eoff, Recorder/Treasurer/Clerk, CMC

APPROVED AS TO FORM:

Brad A. Cazort, City Attorney

CITY OF CLINTON

CITY HALL



Clinton, Arkansas

2007 Employee Handbook

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SECTION I.

EMPLOYMENT POLICIES

EQUAL OPPORTUNITY EMPLOYER

The City of Clinton is committed to providing equal employment opportunity 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.

AT-WILL EMPLOYER

The City of Clinton is an at-will employer. This means that the City of Clinton 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 considered in any way to waive this provision.

All City employees should understand that this handbook is not intended to create any contractual or other legal rights. It does not alter the City's at-will employment policy nor does it create an employment contract for any period of time.

AUTHORITY TO HIRE AND FIRE

The Mayor of Clinton will have the authority to hire and fire all department heads, this is in accordance with Arkansas Code Ann. 14-42-110.

JOB POSTING AND ADVERTISING

An application for employment will be accepted from anyone who wishes to apply for employment on forms provided by the city. Application forms are available in the office of the City Clerk. All information provided on the application must be true and correct with the provision of false information being grounds for elimination of consideration for hiring and/or dismissal from City employment.

EMPLOYMENT APPLICATIONS AND RESUMES

The City of Clinton relies upon the accuracy of information contained in the employment applications and resumes submitted by prospective employees, as well as other information provided throughout the hiring process and employment. Any misrepresentations, falsifications, or material omissions in any of this information may result in the exclusion of the individual from further consideration for employment or, if the person has been hired, in termination or other disciplinary measures.

Applicants for any City employment will not be accepted from anyone under eighteen (18) years of age. Except as otherwise provided by Arkansas law.

POST-OFFER PRE-EMPLOYMENT PHYSICALS

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 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 City Clerk 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 and City Council. Only in cases of emergency may an employee begin work prior to the post-employment job offer medical examination, but employment is subject to an applicant's passing such examination.

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 City Clerk to be kept in a confidential file apart from the Personnel file. The City may share such information only in limited circumstances with supervisors, managers, first aid and safety personnel, government officials investigating compliance with the ADA, state workers' compensation offices, state second injury funds, workers' compensation insurance carriers, health care professionals when seeking advice in making reasonable accommodation determinations, and for insurance purposes. Should there be a dispute concerning the exam, or should a supervisor be informed as to the need of reasonable accommodation including job restructuring, the report shall be made available to the necessary legal and supervisory or administrative personnel with in the City Government.

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 and City Council shall take such action that is necessary for the good of the service.

Current abuse of drugs or alcohol is not a protected disability under the Americans with Disabilities Act (ADA). The City will not hire anyone who is known to currently abuse drugs or alcohol. Furthermore, all employees are expected to report to work in a fit condition to perform their duties. Employees on official business or representing the City on or off of the work place are prohibited from purchasing, transferring, using or possessing illegal drugs or from abusing alcohol or prescription drugs in any way that is illegal. An employee reporting or returning to work whose behavior reflects the abuse of alcoholic beverages or drugs may be referred for a medical evaluation to determine fitness for work. Failure to report for an evaluation or follow the recommendations of the City will result in appropriate disciplinary action, including termination.

THE OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT OF 1991

It is the City of Clinton'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 Clinton 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 Clinton 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.

NOTIFICATION

As a condition of employment with the City, employees must abide by the terms of this drug and alcohol policy and report any conviction under a criminal drug or alcohol statute including DWI convictions for violations occurring on or off City premises while conducting city business. A report of a conviction shall be made within five (5) days after the conviction. Failure to report a conviction within the five (5) day period may result in disciplinary action, including immediate termination.

OTHER DRUG AND ALCOHOL TESTING

The City of Clinton has a responsibility to ensure safe-working conditions for its employees and a productive City workforce unimpaired by chemical substance abuse. To satisfy these responsibilities, City is committed to maintaining a work place that is free from the effects of drugs, alcohol, or other performance-impairing substances. All employees are expected to obey all laws regarding the use of illegal drugs or alcohol. The City prohibits the possession, unlawful manufacturing, distribution of illegal drugs or the abuse of alcohol or prescription drugs while on City premises during work hours. Any employee violating this policy will be subject to appropriate discipline, including termination. Any City employee who violates this substance abuse policy, or who is convicted of an alcohol or drug violation, will be subject to disciplinary action, up to, and including dismissal.

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 Clinton 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.

Employees are subject to testing for the use of alcohol and illegal substances. Prior to hiring a new employee, the City of Clinton requires a drug test. Also, employees are subject to random drug testing without any prior notification. If an employee tests positive for drugs, the employee is subject to immediate termination.

SECTION II.

GENERAL EMPLOYEE BENEFITS

SICK & VACATIONS ALL CITY EMPLOYEES

SICK - All City of Clinton employees regardless of their titles, shall accumulate unused sick leave to a maximum of sixty days. Payment for unused sick leave will not be made when employment terminates for any reason other than death or retirement. Payment for unused sick leave will not exceed sixty (60) days of salary.

VACATION – All City of Clinton employees are required to take five (5) days vacation annually.

All City of Clinton employees regardless of their titles, shall accumulate vacation up to thirty (30) days. Unused vacation shall not exceed thirty (30) days.

Any unused vacation time beyond the 30 day limit or days accrued below the 30 day limit will not be paid in cash. There will be no buying back vacation days, except on an emergency basis or for extenuating circumstances, either of which must be approved by a resolution of the Clinton City Council on a case-by-case basis to determine if such an emergency or extenuating circumstances exists. Accrued vacation time up to 30 days will be paid in cash upon an employee's termination from employment for any reason. There will be no buying back

VACATIONS Police Department

See the Police Manual for the policy concerning this issue.

Pursuant to Ark. Code Ann. §14-52-106, each employee shall be granted an annual vacation of not less than fifteen (15) working days with full pay.

All employees of the police department shall accumulate vacation time at the rate of one and one-quarter (1 ¼) working days for each month of working service.

The Police Chief shall see that employees of the police department take 5 days vacation, if accumulated before the end of the calendar year, or shortly thereafter.

Fire Department

The chief of the 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).

All employees of the fire department shall accumulate vacation time at the rate of one and one-quarter (1 ¼) 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.

Vacation Time for Non-Uniformed Employees

Vacation time is granted to all employees who have completed twelve (12) months of service.

Employees hired are eligible for one (1) week's vacation with pay after completion of twelve (12) months of service.

VACATION ACCRUAL RATE

Years of Service Vacation	None
0 – 12 Months	5 Working Days
1 Year But Less Than 2	10 Working Days
2 Years But Less Than 5	15 Working Days
5 Years or More	

Employees hired are eligible for one (1) week's vacation with pay after completion of twelve (12) months of service. After two (2) years of service, the employee is eligible for two (2) week's vacation. After five (5) years of service, the employee is eligible for three (3) week's vacation.

The amount of personnel off at any one time will be governed by the department head and based on departmental workloads.

Employees should notify their department heads at least 4 weeks in advance for vacation leave.

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.

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.

It should be understood that the policies concerning vacation time for non-uniformed employees are simply a suggested method of computing vacation time. The suggested method in no way alters the City of Clinton at-willed employment policy as described earlier in this Personnel Policy Manual.

HOLIDAYS AND HOLIDAY PAY

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

State Holidays

New Year's Day	January 1
Martin Luther King Jr. Day &	Third Monday in January
Robert E. Lee's Birthday	
George Washington's Birthday or President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
The Day After Thanksgiving	
Christmas Eve	December 24
Christmas Day	December 25

(Police Department minus Christmas Eve per ordinance)

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SICK LEAVE

Police Department

Payment for unused sick leave will not be made when the officer's employment terminates for any reason other than death or retirement. Payment for unused sick leave in the case of a police officer shall not exceed sixty (60) days salary (A.C.A. 14-52-107).

See Police Manual for other specifics on this issue.

Pursuant to Ark. Code Ann. §14-52-107, 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.

Time off may be charged against accumulated sick leave only for such days that an officer is scheduled to work. No sick leave, as provided in this section, shall be charged against any officer during any period of sickness, illness, or injury for any days, which the officer is not scheduled to work.

If, at the end of his term of service, upon retirement or death, whichever occurs first, any police officer 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 officer's employment terminates for any reason other than death or retirement. Payment for unused sick leave in the case of a police officer shall not exceed sixty (60) days salary. (ACA 14-52-107)

Fire Department

Firefighters shall accumulate sick leave at the rate of twenty (20) working days per year beginning one (1) year after the date of employment. For purposes of calculating sick days, a "working day" shall be calculated as that period of time a firefighter is on duty within a 24-hour period. If a firefighter is on duty for twelve (12) hours or more in a 24-hour period, a working day shall not be less than twelve (12) hours or more than 24 hours.

If unused, sick leave shall accumulate to a maximum of sixty (60) days (A.C.A. 15-53-108).

Time off may be charged against accumulated sick leave only for such days that a firefighter is scheduled to work. No sick leave, as provided in this section, shall be charged against any firefighter during any period of sickness, illness or injury for any days, which the firefighter is not scheduled to work.

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 employments ends for any reason other than death or retirement.

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

Non-Uniformed Employees

The City of Clinton recognizes that inability to work because of illness or injury may cause economic hardships. For this reason, the City of Clinton provides paid sick leave to full-time employees. An employee shall accumulate sick leave at the rate of one and two thirds (1 2/3) days per month. Sick leave will accumulate from date of hire. Unused sick days shall accumulate to a maximum of sixty (60) days.

Any 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).
- (4) Medical, dental and optical visits

An employee who is unable to report for work due to one of the previous listed sick leave reasons shall report the reason for his absence to the employee's supervisor or someone 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 shall not be allowed unless such report has been made as aforementioned.

Employees who are absent more than two (2) consecutive days due to unconfirmed illness shall be required by the supervisor or department head to submit a statement from a physician, qualified nurse or hospital. Failure to do so will result in non-compensation.

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, or use accrued vacation days.

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 that employee's regular rate of pay. An employee may use sick leave in this fashion for a maximum of six (6) months.

FUNERAL OR BEREAVEMENT LEAVE

Funeral leave with pay up to a maximum of three (3) calendar days will be granted to all city employees in cases of death or in the circumstances of death in the immediate family only. This time will be charged against employee's sick days.

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.

Travel time may be granted upon prior approval of the City Council in addition to the three (3) days where travel time of more than eight (8) hours is necessary.

The Mayor may grant funeral leave of not more than one (1) day for an employee to be a pallbearer one (1) day for an employee to be a pallbearer or attend a funeral of someone not within the immediate family. This time will be charged against employee's sick days.

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 time, if representative of the employee, will be granted for maternity use after which leave without pay must be used.

UNIFORMED SERVICES

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.*, in A.C.A. 21-4-102. It is the city's policy to honor and comply with the provisions of those statutes.

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 necessary travel time (A.C.A. 21-4-102)

FAMILY MEDICAL LEAVE

The Family Medical Leave Act (FMLA) of 1993 require cities 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:

- The birth and care of the employee's child;
- The placement of a child into an employee's family by adoption or by foster-care arrangement;
- The care of an immediate family member (spouse, child, parent) who has a serious health condition; and
- 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.

You must conclude leave for the birth of a child or for adoption or foster care within twelve (12) months after the event. However, leave may begin prior to birth or placement, as circumstances dictate.

Leave entitlements for medical reasons are predicated upon the existence of a serious health condition suffered by you or an immediate family member. A serious health condition is an illness, injury, impairment, or physical or mental condition that involves:

- Inpatient care in a hospital, hospice, or residential medical care facility; or
- Continuing treatment by a health care provider for a chronic or long-term health condition that is so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days, and for prenatal care.

Generally, a condition will be considered a serious health condition if the condition or its treatment causes an employee to be absent from work on a recurring basis or for more than three calendar days.

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:

- Be employed by the City for at least one year;
- Have worked 1,250 hours over the previous twelve (12) months preceding the leave request.
- City has fifty (50) or more employees

Employees are required to use all sick leave, which they have accrued, prior to going on leave without pay. The City shall not require the use of annual leave as part of family medical leave. The employee, at the employee's option, may use annual leave as part of family medical leave. Such paid leave status shall be included in the total of the 12 workweeks.

City employees must use vacation time 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). The City requires written medical certification that the

leave is needed due to the employee's own serious health condition or that of a family member. Depending on each individual situation, the City may require a fitness for duty report on return to work.

The City understands that upon return from FMLA leave, most employees must be restored to their original or equivalent position with equivalent pay, benefits or 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.

Additional information and forms may be obtained from the City Clerk.

FMLA INTERMITTENT OR REDUCED LEAVE

In circumstances where FMLA leave is sought for your own serious health condition or that of a family member, you may take leave intermittently or be placed on a reduced work schedule, if medically necessary. In addition, when you chose to use FMLA for the birth or adoption of a child, you may also take leave intermittently or be placed on a reduced work schedule. However, this may only be done with prior permission and approval of the CITY COUNCIL. If you request intermittent or reduced leave status, the City may in its sole discretion temporarily transfer you to another job, with equivalent pay and benefits, if another position would better accommodate that the intermittent or reduced schedule. Furthermore, if the need to use leave is foreseeable and based on pre-planned and pre-scheduled medical treatment, you should schedule the treatment in a manner that does not unduly disrupt the City's operations.

LEAVE PROVISIONS FOR SPOUSES BOTH WORKING FOR THE CITY

In the event a husband and wife both work for the City, the maximum combined leave for both spouses is 12 weeks, if FMLA leave is taken for the adoption or birth of a healthy child, or to take care of a sick parent and leave need be granted to only one parent at a time.

If FMLA leave is taken to care for an ill child, spouse, or for the employee's own serious illness, then each spouse is entitled to 12 total weeks of leave.

FMLA EMPLOYEE BENEFITS

During an employee's FMLA leave of absence, his/her health care benefits will continue. Both the City and the employee will be required to pay the customary portions of the monthly health premium. The employee's failure to pay his or her share of the premium may result in loss of coverage. City Clerk will advise the employee of the payment due