

1 **..Title**

2 **Fair Cannabis Employment Practices**– For the purpose of updating the City of Annapolis
3 employment policy as a result of the State legalizing cannabis use and possession on July 1,
4 2023, and generally related to city employment policy.

5 **..Body**

6 **CITY COUNCIL OF THE**
7 **City of Annapolis**

8
9 **Ordinance 35-24**

10
11 **Introduced by: Alderman Savidge**

12 **Co-sponsored by:** Alds. O'Neill, Gay, Huntley, Arnett, Finlayson

13
14 **Referred to**

15 Rules and City Government Committee,
16 Housing and Human Welfare Committee

17
18 **AN ORDINANCE** concerning

19
20 **Fair Cannabis Employment Practices**

21
22 **FOR** the purpose of updating the City of Annapolis employment policy as a result of the State
23 legalizing cannabis use and possession on July 1, 2023, and generally related to city
24 employment policy.

25
26 **BY** repealing and re-enacting with amendments the following portions of the Code of the City
27 of Annapolis, 2024 Edition:
28 **3.04.010**

29
30 **BY** enacting with amendments the following portions of the Code of the City of Annapolis,
31 2024 Edition:
32 **3.24.050**

33
34 **WHEREAS,** Now that Maryland has legalized medical and recreational Cannabis use, there is
35 a disconnect between that legalized use and the City's policies governing drug
36 abuse, which impacts both the City's ability to hire and retain good employees
37 and discriminates against those who legally and responsibly use cannabis while
38 off-duty; and

39
40 **WHEREAS,** The City's current policy is to test all job applicants and current employees upon
41 reasonable suspicion for Controlled Dangerous Substances (CDS), including
42 cannabis, which impacts our ability to hire and retain good employees and
43

Explanation: ~~Strikethrough~~ indicates matter stricken from existing law.
 Underlining indicates a change to the City Code.
 Underlining & black - copyediting or reformatting of existing Code section
 Underlining & red - new matter added to the code.

WHEREAS, The City's current policy requires an employee to go through a full drug treatment program if tested positive for cannabis, treating it no differently than much more addictive and severe CDS; and

WHEREAS, When determining on-the-job impairment, the City's current policy is to use urine testing, which cannot determine impairment since it cannot detect the psychotropic component of THC and instead reveals benign and off-duty use of cannabis going back as far as three months, which is irrelevant to impairment; and

WHEREAS, Someone's job is one's livelihood, and losing such a job for using recreationally and medically legal cannabis while off-duty represents an extreme, unproportional, discriminatory, and unacceptable consequence; and

WHEREAS, Whereas, Governor Wes Moore issued Executive Order 01.01.2023.16, which rescinded previous executive orders related to workplace substance abuse policies and reaffirmed Maryland's commitment to a drug-free workplace while recognizing the legalization of adult-use cannabis, thus promoting a fair and equitable approach to cannabis use; and

THEREFORE, the City of Annapolis aims to follow Governor Wes Moore's example by promoting fair and equitable workplace policies regarding cannabis use, ensuring that employees' rights are protected and respected.

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

Title 3 - HUMAN RESOURCES

Chapter 3.04 - General Provisions

Section 3.04.010 - Definitions

For the purposes of this title, the following words and phrases have the meanings indicated:

1. "Anniversary date," also known as "review date" or "increment date," means ~~the~~that date on which an employee is eligible to receive an in-grade pay increase, normally twelve months from the date of hire and each twelve months thereafter. This date may ~~only~~ be changed by awarding an in-grade pay increase later than the due~~date it is due~~.

2. "Appointing authority" means:

a. The Mayor, ~~(for positions assigned to the office of the Mayor);~~

b. The City Manager ~~(for the director of each department);~~

c. The director of each department, ~~(for positions assigned to that department); and~~

d. The head of an office, ~~(for positions assigned to that office);~~

Explanation:

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates a change to the City Code.

Underlining & black - copyediting or reformatting of existing Code section

Underlining & red - new matter added to the code.

- 1 3. "Appointment list" means a list containing the names of qualified applicants for a
2 particular position ~~that~~ which may be ranked based ~~on the basis of~~ one or more of the
3 following: applicant's qualifications, competitive examination score(s) and personal
4 interview.
- 5 4. "Cannabis" means the plant Cannabis Sativa L. and any part of the plant, including all
6 derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether
7 growing or not, with a delta-9-tetrahydrocannabinol concentration greater than 0.3%
8 on a dry weight basis. Cannabis includes cannabis products but does not include hemp
9 or hemp products as defined by Agriculture Article § 14-101 of the Maryland Code.
- 10 5. "City employee" means an individual employed by the City of Annapolis or a City
11 contract employee.
- 12 6. "Civil Service" means the system which includes the regulations and procedures
13 prescribed in and promulgated under the authority of this chapter, the Civil Service
14 Board, the job descriptions, the pay plan and all of the employees ~~who are~~ included in the
15 system.
- 16 7. "Classification" means ~~the process of~~ reviewing the duties and responsibilities of a
17 position or positions and incorporating these duties and responsibilities into a job
18 description.
- 19 8. "Controlled Dangerous Substance" means any substance, excluding cannabis, that is
20 controlled under the Federal Controlled Substances Act, 21 U.S.C. § 801, et seq., as
21 amended, and/or the Maryland Controlled Dangerous Substances Act located in
22 Criminal Law Article § 5-101 through 5-1101 of the Maryland Code.
- 23 9. "Demotion" means ~~an employee's~~ the voluntary or involuntary movement ~~of an employee~~
24 from a pay grade to a lower pay grade.
- 25 10. "Drug" means any controlled, dangerous substance, non-prescription drug, or
26 prescription drug taken into the body that may impair one's mental faculties and/or
27 change one's mood and/or physical performance. .
- 28 11. "Employee" means the person employed to perform the work of a position.
- 29 12. "Employment agreement" means a written agreement executed with the City for an
30 individual to provide personal services to the City for pay on either a part-time or full-
31 time basis.
- 32 13. "Employment agreement employee" means another excluded service employee: (1) who,
33 is required to execute an employment agreement; (2) who is not specifically placed in the
34 civil service system by Human Resources Manager or designated as exempt service by
35 the City Council; (3) who does not meet the definition of a temporary employee; and (4)
36 who has an employer-employee relationship with the City as further described in Chapter
37 3.10. This includes employees whose positions are fully funded by grant sources that
38 preclude benefits or compensation to which civil service employees are entitled.

Explanation:

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates a change to the City Code.

Underlining & black - copyediting or reformatting of existing Code section

Underlining & red - new matter added to the code.

An "employment agreement employee" means a non-civil service employee who:

- a. Is required to sign an employment agreement;
- b. Is not specifically placed in the civil service system by the Human Resources Manager or designated as exempt service by the City Council;
- c. Does not meet the definition of a temporary employee; and
- d. Has an employer-employee relationship with the City as further detailed in § 3.10.
- e. Is in a position that is fully funded by grant sources that prevent them from receiving benefits or compensation entitled to civil service employees.

14. "Equal protection" means that in accordance with the 14th Amendment of the United States Constitution, the City shall treat a person or class of persons the same as it treats other persons or classes in like circumstances.

15. "Exempt service" means positions designated by the City Council ~~that~~which are specifically not included in the civil service and are enumerated in ~~Section~~§ 3.08.

16. "Impaired" means reduced cognitive or physical ability that results from use of drugs, alcohol, cannabis, or controlled dangerous substances.

17. "Job description" means a written explanation of one position or of several very similar positions ~~that~~which always includes a title, a general definition of responsibilities, a list of typical duties and the minimum required qualifications.

18. "Other excluded service" includes all other persons rendering limited-term or temporary employee services except those specifically placed in the civil service system by the Human Resources Manager or those designated as exempt service by the City Council. Any positions not included in the civil service or the exempt service are considered ~~to be~~ "other excluded service."

19. "Pay plan" means the written chart ~~that~~which places every job description in a pay grade. Each pay grade consists of a maximum, minimum, and intermediate level of pay. ~~maximum and minimum level and intermediate levels of pay.~~

20. "Permanent status" means the status given to a civil service employee who has successfully completed the initial probationary period, or any extension of an initial probationary period.

21. "Position" means a group of duties and responsibilities assigned to an employee. A position can be vacant or occupied.

22. "Probationary status" means the status given to a new, a transferred or a promoted civil service employee for the designated period during which the employee must initially demonstrate an ability to perform the duties of the position to which appointed.

23. "Promotion" means assigning a civil service employee from one pay grade to a higher pay grade.

Explanation:

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates a change to the City Code.

Underlining & black - copyediting or reformatting of existing Code section

Underlining & red - new matter added to the code.

24. "Reclassification" means ~~the process of~~ reviewing the duties and responsibilities of an existing position or positions ~~in order to~~ revise the job description to which the ~~y position~~ ~~or positions~~ are assigned; or moving a job description from one pay grade to another pay grade.

25. "Temporary employee" means any other excluded service employee appointed for a special project, program, grant or seasonal employment who works either part-time for less than thirty regularly scheduled hours per week or full-time for no more than one hundred six days per City fiscal year. Temporary employees are not required to execute an employment agreement, unless otherwise required by the appointing authority.

26. "Transfer" means the movement of a civil service employee from one position to another in the same pay grade.

Title 3 - HUMAN RESOURCES
Chapter 3.24 - Conduct and Qualifications
Section 3.24.050 - Cannabis

A. **Testing** Except as may be required under § 3.24.050(B) herein, the City shall not conduct cannabis testing during pre-employment screening or after hiring an employee.

B. **Preemptions.** Nothing in this section:

1. Permits a City employee to possess, be impaired by, or use cannabis or intoxicating cannabinoids while on the job.
2. Affects the rights or obligations of the City to maintain a drug- and alcohol-free workplace.
3. Prevents the rights or obligations of the City to take disciplinary action against someone impaired while on duty.
4. Affects any other City obligations under Federal or State law.
5. Preempts state or federal laws requiring applicants or employees to be tested for controlled substances.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect upon passage.

Explanation: ~~Strikethrough~~ indicates matter stricken from existing law.
 Underlining indicates a change to the City Code.
 Underlining & black - copyediting or reformatting of existing Code section
 Underlining & red - new matter added to the code.