

# YAPHANK FIRE DISTRICT RECREATIONAL & MEDICAL MARIJUANA/CANNABIS USE AND THE WORKPLACE

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## **Policy:**

New York State has legalized the recreational use of marijuana/ cannabis [hereinafter referred to herein as "marijuana"] under the Marijuana Regulation and Taxation Act [hereinafter "MRTA"] and previously authorized the medicinal use of marijuana. These laws create challenges in our workplace because fire districts and fire departments have to operate a drug free workplace in order to protect the safety of our personnel and the people we serve while respecting these new rights.

### **NON-DISCRIMINATION STANCE**

- The policy of our fire district is not to discriminate against personnel for the legal recreational or medicinal use of marijuana.
- Keep in mind these protections apply to adult [21 years of age and older] use of marijuana as recreational use is only permitted by adults under the law.

### **USE AND POSSESSION NOT PERMITTED AT THE WORKSITE AND DURING WORKING HOURS**

- It is also the policy of our fire district not to permit the use or possession of marijuana during working hours and on our worksite and not to permit the performance of work duties while impaired by marijuana.

### **MARIJUANA TESTING WILL NOT BE PERFORMED ON OUR PERSONNEL**

- The first step which the Board of Fire Commissioners will take will be to end or not commence the practice of conducting entry level or periodic testing of our applicants and our personnel for marijuana. The state of the science for testing for the presence of marijuana in a person does not permit a determination of when the substance was used and does not provide a reading of current levels of

impairment. Thus, current tests cannot separate recreational use and medicinal use from use occurring at work. Further, it is the position of the New York State Department of Labor that a test result which is positive for the presence of marijuana in a person's system does not constitute an articulable symptom of marijuana impairment. Under these circumstances testing for marijuana presents no benefit to the fire district.

### **WHEN PERSONNEL CAN BE DISCIPLINED RELATIVE TO MARIJUANA USE AND POSSESSION**

- The MRTA amended New York Labor Law Section 201- D by adding a new subsection 4-a, which provides that employers MAY take employment action or prohibit employee conduct where:
  - An employer is/was required to take such action by state or federal statute, regulation, or ordinance, or other state or federal governmental mandate
  - The employer would be in violation of federal law
  - The employer would lose a federal contract or federal funding
  - The employee, while working, manifests specific articulable symptoms of marijuana impairment that decrease or lessen the employee's performance of the employee's tasks or duties
  - The employee, while working, manifests specific articulable symptoms of marijuana impairment that interfere with the employer's obligation to provide a safe and healthy workplace as required by state and federal workplace safety laws

### **ARTICULABLE SYMPTOMS OF IMPAIRMENT**

- There is no dispositive and complete list of symptoms of impairment.
- The symptom are articulable symptoms of impairment are objectively observable
- They indicate that the employee's performance of the duties of his or her position decreased or lessened. [Such articulable symptoms may also be an indication that an employee has a protected disability]
- They interfere with an employer's obligation to provide a safe and healthy workplace, free from recognized hazards, as required by state and federal occupational safety and health laws the unsafe and
- They might involve the reckless operation of heavy machinery

### **NOT AN ARTICULABLE SYMPTOM OF IMPAIRMENT**

- A positive marijuana test

- The odor of marijuana by itself

**WORK RULES**

- Our personnel are prohibited from using and/or possessing marijuana during "work hours," which for these purposes includes;
  - o Performing volunteer duties
  - o Performing paid duties
  - o Time spent on paid and unpaid breaks and meal periods during working shifts
  - o Time spent on call
  - o Time spent at a conference, convention or seminar attending the event
  - o Time spent traveling to off-site work assignment, conference, convention or seminar
- Our personnel cannot use and/or possess marijuana while at work
- Our personnel may not bring marijuana onto our property, including leased and rented space, district/department/ company vehicles, and areas used by our personnel within such property (e.g., lockers, desks, etc.).
- Our personnel may not possess or use marijuana on our property or in our vehicles during, before and after hours. If our property or vehicles are being used before, during or after work hours these rules apply

**DEFINITIONS**

For purposes of this policy the follow definitions apply:

- The words officer, employee, paid employee, volunteer, and personnel shall be used interchangeably. This policy applies to all officers, employees, paid employees, volunteers, and personnel.

Chairman Austin	AYE
Commissioner Peters Jr.	AYE
Commissioner Thebold	AYE
Commissioner Schaaf	AYE
Commissioner Skidmore	AYE

Adopted at the Board of Fire Commissioners Meeting of the Yaphank Fire District on August 17, 2022.

Re-adopted this 7<sup>th</sup> day of January 2025 by the Board of Fire Commissioners.

Attest by:

Paulamarie Rosso-Thompson  
District Secretary