

ENDWELL FIRE DISTRICT

MARIJUANA IN THE WORKPLACE POLICY

Number: 2023 - 40

Adopted: November 29, 2023

In 2021, New York State passed the Marijuana Regulation & Taxation Act (MRTA) [note that the spelling used in Chapter 92 of the Laws of 2021 for the title of the act used “marihuana” as the spelling for the substance and also used the term “cannabis”] which legalized the recreational use and possession of marijuana. The law also created a system to manage the substance's licensing, production, and sale. For our purposes, the important facts are that;

- The recreational use and possession of marijuana is now legal for persons over the age of 21.
- The medicine use and possession of marijuana has been legal prior to the act.
- The state of testing for marijuana does not permit testing that will prove current impairment or detect when marijuana was used.
- Marijuana use, possession, and impairment in the workplace remains illegal.
- Marijuana impairment in the workplace imperils the safety of the worker/volunteer, other workers/ volunteers in the workplace, and the people our personnel are sworn to protect

Based upon the foregoing, the following policy shall be in effect for all officers, employees, and volunteer firefighters of the Endwell Fire District.

The Endwell Fire District does not discriminate and will not discriminate against officers, employees, and volunteer firefighters based on that person's use of marijuana outside of the workplace, outside of work hours, and without the use of the Endwell Fire District and/or the Endwell Fire Department's equipment or property.

Testing for marijuana will no longer be a part of entry-level, periodic, and return-to-duty physical examinations in the Endwell Fire District.

Officers, employees, and volunteer firefighters may not use, possess, or be impaired from the use of marijuana while in the workplace.

The workplace of the Endwell Fire District, for purposes of this policy, shall be;

- All fire stations and buildings owned, leased, or maintained by the Endwell Fire District;
- The grounds of such fire stations and buildings;
- All vehicles owned by the Endwell Fire District and/or the Endwell Fire Department;
- All vehicles leased or rented by the Endwell Fire District and/or the Endwell Fire Department, which shall include, but not be limited to, rental cars used for official travel of the Endwell Fire District and/or the Endwell Fire Department by officers, employees, and volunteer firefighters;
- All vehicles assigned to personnel when used for business and personal purposes;

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- The location of any activity of the Endwell Fire District and/or the Endwell Fire Department, including but not limited to scenes of emergency responses, training schools, and classes, gatherings of the Endwell Fire District and/or the Endwell Fire Department and its constituent companies;
- The location of any event that would be considered a line of duty activity for an officer, employee, and/or volunteer firefighter under the Public Officers Law, the Town Law, the Workers Compensation Law, or the Volunteer Firefighters Benefits Law; and
- The workplace includes places paid employees go to for breaks and meal periods.

The Endwell Fire District will take employment action against an officer, employee, or volunteer firefighter if that person possesses marijuana in the workplace or is impaired by marijuana while working or present in the workplace, meaning the person manifests specific articulable symptoms of impairment that:

- Decrease or lessen the performance of their duties or tasks
- 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

According to the New York State Department of Labor, there is no dispositive and complete list of symptoms of impairment. Rather, articulable symptoms of impairment are objectively observable indications that the employee's performance of the duties of their position is decreased or lessened.

Articulable symptoms may not be a symptom that manifests itself from a disability protected by federal and state law.

A test result cannot be used as an indicator.

The smell of marijuana alone cannot be treated as an articulable symptom.

The operation of heavy machinery in an unsafe and reckless manner may be considered an articulable symptom of impairment.

The Endwell Fire District cautions personnel that marijuana impairment can endanger the person impaired, their fellow personnel, and the people they are sworn to serve. The Board of Fire Commissioners takes no position with regard to the decision to use marijuana recreationally or medicinally. This is not a policy meant to tell people how to live their lives. It is purely meant to be a safety policy. The Board only takes the position in this policy that marijuana cannot be used or possessed in our workplace, and you cannot come to the workplace impaired by it. Our policy in the workplace is one of zero tolerance. If you use marijuana recreationally or medicinally, do not come to our workplace and do not report to work for us until you are no longer impaired. The personnel you serve with deserve better. Our community deserves better. The services of people who are impaired by marijuana are not a benefit to the people we serve.

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The adoption of the foregoing policy in the form of a resolution was duly put to a vote, and upon roll call, the vote was as follows:

Chairman Carlton “Andy” Anderson	AYE
Commissioner Donald “Don” Battaglini	NOT PRESENT
Commissioner Mark Storm	AYE
Commissioner Michael Hamzik	AYE
Commissioner Michael Lewis	AYE

The resolution was thereupon duly adopted.

Dated: Endwell, New York
November 29, 2023

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