

SECTION 9 – DRUGS AND ALCOHOL

9.1 DRUG AND ALCOHOL USE

It is the City's desire to provide a drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.

Prohibition against Alcohol and Illegal and Unauthorized Drugs. While on City premises, while on duty, while conducting City-related business or other activities off premises, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment, no employee may use, possess, distribute, sell, or be under the influence of alcohol (except under the limited circumstances described below), inhalants, illegal drugs, including drugs which are legally obtainable but which were not legally obtained, and prescribed or over-the-counter drugs which are not being used as prescribed or as intended by the manufacturer.

Prohibition against Illegal and Unauthorized Drug Related Paraphernalia. This policy also prohibits the use, possession, distribution and sale of drug-related paraphernalia while on City premises, while on duty, while conducting City-related business or other activities off premises, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment. Drug-related paraphernalia includes material and/or equipment designed for use in testing, packaging, storing, injecting, ingesting, inhaling or otherwise introducing illegal or unauthorized drugs into the body.

Permissive Use of Prescribed and Over-the-Counter Drugs. The legal use of prescribed and over-the-counter drugs is permitted while on City premises, while on duty, while conducting City-related business or other activities off premises, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment only if it does not impair an employee's ability to perform the essential functions of the job (or operate the vehicle, property or other equipment) effectively and in a safe manner that does not endanger the employee, citizens or other individuals in the workplace. Examples of impairment include, but are not limited to, drowsiness, dizziness, confusion, or feeling shaky.

Permissive Use of Alcohol. The use of alcohol by a City employee during a business lunch is prohibited even though the person with whom the employee is having lunch may be consuming alcohol. At no time may an employee under the influence of alcohol drive a City-owned or leased vehicle or operate or use other City-owned or leased property or equipment. Further, an employee on duty or conducting City business, including City-related business entertainment, may not

drive his or her own personal vehicle while under the influence of alcohol. Reasonable alcohol consumption is not objectionable at certain City-sponsored social events, certain City parties, business entertainment if appropriate (but not during business lunches) and as may otherwise be specifically approved in advance by the City Manager. However, no employee in his or her work-related capacity should ever be impaired because of the excessive use of alcohol. Unless specific approval is granted by the City Manager, including promotional events and activities, City employees may not bring alcoholic beverages on City premises, including parking lots adjacent to City work areas, and may not store or transport alcohol in a City-owned or leased vehicle.

Fire and Police Department Employees. Certain City Fire and Police Department employees are required to be in possession of alcohol and/or drugs in carrying out their job duties. Such employees will be exempted from certain portions of this policy under certain limited conditions; these employees will be advised in writing of the specific exemptions applicable to them. Additional guidelines will be established by Police and Fire Department operating procedures.

Mandatory Disclosure by Employees. Employees taking prescription medication and/or over-the-counter medication must report such use to either their Department Director or the Human Resource Director if there is a reasonable likelihood the medication will impair the employee's ability to perform the essential functions of his or her job (or operate a vehicle, property or other equipment, if applicable) effectively and in a safe manner that does not endanger the employee, citizens or other individuals in the workplace. Examples of impairment include, but are not limited to, drowsiness, dizziness, confusion, or feeling shaky.

On-Call Employees. Employees scheduled to be on-call are expected to be fit for duty upon reporting to work. Any employee scheduled to be on-call who is called out is governed by this policy. Sometimes an employee who is not scheduled to be on-call may nevertheless be called out. If this or any other situation occurs where the employee called out is under the influence of drugs and/or alcohol such that reporting to work would result in a violation of this policy, the employee must so advise the appropriate supervisor on duty; the employee will not be required to report to work.

Mandatory Reporting of Convictions. Employees must notify the Human Resources Director, in writing, of any criminal drug conviction (including a plea of *nolo contendere*) for a violation occurring in the workplace no later than five calendar days after the conviction.

Off-Duty Conduct. The City may take disciplinary action, up to and including termination of employment, if an employee's off-duty use or involvement with

drugs or alcohol is damaging to the City's reputation or business, is inconsistent with the employee's job duties, or when such off-duty use or involvement adversely affects the employee's job performance.

Searches. The City may, at any time, conduct unannounced searches or inspections of the worksite, including, but not limited to, City property used by employees such as lockers, file cabinets, desks, and offices, whether secured, unsecured or secured by a lock provided by the employee. If reasonable suspicion exists, the City may also conduct unannounced searches or inspection of the employee's personal property located on City premises, including purses, lunch boxes, brief cases and private vehicles or vehicles used to conduct City business located on City property. Employees are not entitled to any expectation of privacy with respect to such items.

All searches must be authorized in advance by the City Manager and conducted under the direction of the City Manager. Employees who refuse to cooperate with a search will likely be subject to disciplinary action, up to and including termination.

Policy Violations. Violations of this policy will generally lead to disciplinary action, up to and including immediate termination of employment and/or required participation in a substance abuse rehabilitation or treatment program. Employees with questions or concerns about substance dependency or abuse are encouraged to discuss these matters with their supervisor or Department Director to receive assistance or referrals to appropriate resources in the community.

The City may have additional obligations in addressing controlled substances and alcohol abuse for those employees regulated by the U.S. Department of Transportation. The City will ensure that the controlled substance and alcohol testing conforms to US DOT workplace testing requirements.

9.2 DRUG AND ALCOHOL TESTING

Types of Tests. Testing may include one or more of the following: urinalysis, hair testing, breathalyzer, intoxilyzer, or other generally accepted testing procedure.

Testing of Applicants. All applicants to whom a conditional offer of employment has been made may be required to submit to testing for alcohol and illegal and unauthorized drugs. A positive test result, refusal to test, or attempts to alter or tamper with a sample or any other part of the test, will render the applicant ineligible for consideration of employment or future employment with the City.

Testing of Employees.

1. Employees may be tested for alcohol and/or illegal and unauthorized drugs after a workplace injury or accident or “near miss,” when reasonable suspicion exists, or in connection with any required treatment or rehabilitation.
2. For purposes of this policy, reasonable suspicion is a belief based on articulable observations (*e.g.*, observation of alcohol or drug use, apparent physical state of impairment, incoherent mental state, changes in personal behavior that are otherwise unexplainable, deteriorating work performance that is not attributable to other factors, a work-related accident or injury, evidence of possession of substances or objects which appear to be illegal or unauthorized drugs, or drug paraphernalia) sufficient to lead a supervisor to suspect that the employee is under the influence of illegal or unauthorized drugs or alcohol. Supervisors must document the specific, observable facts in support of reasonable suspicion testing (*e.g.*, the who, what, when, where of the employee’s behavior and other symptoms, statements from other employees or third parties, and other evidence supporting the reasonable suspicion testing).
3. Tests will be paid for by the City. To the extent possible, testing will normally be done during the employee’s normal work time.
4. Any employee who refuses to be tested, or who attempts to alter or tamper with a sample or any other part of the testing process, will be subject to disciplinary action, up to and including termination.
5. A positive test result is a violation of the City’s Drug and Alcohol Use Policy and will likely result in disciplinary action, up to and including termination of employment. Any employee who is terminated for violation of the City’s Drug and Alcohol Use Policy is ineligible for future employment with the City.
6. Police and Fire Department employees are also subject to departmental rules and regulations regarding illegal and unauthorized drug and alcohol testing, including provisions for random testing.
7. The City may have additional obligations when testing for controlled substances and alcohol for those employees regulated by the U.S. Department of Transportation.

Testing Procedures.

1. All testing must be authorized in advance by the City Manager. For reasonable suspicion testing, testing may not be authorized without the supervisor’s documentation of the articulable observations which led him or her to suspect that the employee is under the influence of illegal or unauthorized

drugs or alcohol. Testing should be arranged as soon as possible after the supervisor's articulable observations.

2. If an employee's conduct resulted in a work place accident, injury or "near miss," or reasonable suspicion otherwise exists to believe that the employee has violated the City's Drug and Alcohol Use Policy, the employee will be provided with transportation to the testing facility. A supervisor or other designated City representative may be required to stay with the employee during the testing process. The City may, at its discretion, reassign the employee or put him/her on administrative leave until the test results are received. The City will make arrangements to have the employee transported home after the testing.

3. All substance abuse testing will be performed by a laboratory or health-care provider chosen by the City. All positive test results will be subject to confirmation testing.

4. Test results will be maintained in a confidential file separate and apart from the employee's personnel file. Any medical-related information will be confidential and only accessible by designated City representatives on a need to know basis, including those who have a need to know about necessary restrictions on the work or duties of an employee and any necessary accommodation; first aid and safety personnel when appropriate; government officials; insurance companies as may be necessary to provide health or life insurance to employees; by court order or as otherwise legally mandated; and as necessary to protect the interests of the City.

Positive Test. A positive drug and/or alcohol test will likely result in termination.