

## **ARTICLE IX. DRUG AND ALCOHOL POLICY**

A. **Policy:** Under Federal law the City is required to provide its employees with a drug-free work place. The City recognizes that drug and alcohol abuse are disorders which can be treated. It is the purpose of the City to encourage employees to seek prompt professional assistance in order to resolve drug and alcohol abuse problems before work performance is affected. The City intends to give the same consideration to employees who suffer from drug or alcohol abuse as it would give to employees suffering from any other illness or injury, subject to the further provisions of this Article.

B. **Definitions:** Unless the context specifically indicates otherwise, the following terms as used in this Article, are defined as follows:

**Alcohol** means alcohol consumed for beverage purposes; alcoholic, spirituous, vinous, or fermented, malt, or other liquors; a combination of liquors, a part of which is spirituous, vinous, or fermented; and all preparations or mixtures for beverage purposes containing alcohol.

**Alcohol-related or drug-related** offense means any violation of a State statute or local ordinance which involves physically driving or operating or being in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance, or drug, or any combination thereof, or the possession, manufacture, transportation, use or sale of alcohol or drugs which possession, manufacture, transportation, use or sale is prohibited by state or federal statute or local ordinance.

**Applicant** means any individual who has submitted an application for employment with the City, whether written or oral, including any current employee of the City who has submitted an application for a position not currently held by the employee, whether or not being hired into the position would be a promotion for the employee.

**Controlled substance** means any drug or other substance included in Schedules I, II, III, IV, or V of the Controlled Substances Act of 1970, 21 U.S.C. §§801, et seq., as such may be amended from time to time.

**Drug** means any controlled substance, alcohol, steroids, and any other drug or medication that can interfere with employment performance.

**Employee** means any person being paid directly by the City to perform services for the City on City property or under supervision by the City, including individuals performing services directly under contract with the City, and any person paid by another entity to perform work on City property and who is directly supervised by City staff, whether full-time or part-time, and whether temporary, probationary or permanent.

**Illegal drug** means any drug which is (a) not legally obtainable, or (b) which is legally obtainable but has not been legally obtained.

**Impaired employee** means any employee who exhibits behavior in the workplace which gives the employee's supervisor reasonable cause to believe that the employee is unable to perform the requirements of his or her job as a result of drug or alcohol use, or whose behavior while on business for the City gives a law enforcement officer reasonable cause to believe the employee is under the influence of alcohol or drugs, or whose behavior when reporting for a work-related physical gives the attending physician reasonable cause to believe that the employee is under the influence of alcohol or drugs. Reasonable cause to believe that an employee is impaired by drugs or alcohol may consist of: (1) a severe decline in job performance; (2) abnormal or erratic behavior; (3) actions exhibiting impaired judgment or reflexes; (4) direct observation of drug or alcohol possession or use; (5) physical symptoms of drug or alcohol use, such as glassy or bloodshot eyes, odor of intoxicants on breath, slurred speech, poor balance, poor coordination, dilated pupils or impaired reflexes; (6) an accident where the employee's impairment appears to be a contributory factor; (7) behavior which creates a risk of injury to the employee, co-workers, the public or property; (8) or behavior which disrupts the conduct of City business.

**Legal drug** means both prescribed and over-the-counter drugs which have been legally obtained, and which are being taken in prescribed or recommended quantities for the purpose for which they are prescribed, manufactured or compounded.

**Motor vehicle** means any self-propelled vehicle.

**Negative drug test** means that initial testing or confirmation testing does not show evidence of a drug tested for under this policy in a person's system.

**Positive drug test** means that a confirmation drug test shows positive evidence of the presence of a drug tested for under this policy. For alcohol, a positive drug test is a breathalyzer or blood analysis which shows a blood alcohol content of .04 percent or greater.

**Substance abuse** means the use of any substance (alcohol, legal and illegal drugs) to the degree that the user experiences physical, emotional or social complications which threaten the health, safety, well-being or performance of the individual or fellow employees.

**Under the influence** means employees detected with drugs within the established limits. Employees will be deemed under the influence of alcohol where the alcohol level is at or above .04 percent.

C. Use, Possession or Sale of Alcohol and/or Drugs Prohibited:

Employees are forbidden to report for work while under the influence of alcohol or drugs. Employees are forbidden to use or possess alcohol or drugs or be under the influence of alcohol or drugs on City premises, while using City equipment, while performing City business, or during working hours, except for over-the-counter medications taken as per package directions or medications prescribed by a treating physician. No employee shall manufacture, sell, distribute, or dispense alcohol or drugs while on City premises or during the employee's working hours. This paragraph, however, shall not be applied so as to prevent the consumption or possession of alcohol or the possession of illegal drugs by any police officer when such consumption or possession is necessarily incident to the performance of his or her duties as a police officer. Any employee convicted of, or who pleads guilty to, an alcohol-related or drug-related offense occurring on City premises, while using City equipment, while performing City business or during the employee's working hours, must notify the Personnel Department no later than five days following such conviction or guilty plea, regardless of the sentence imposed. Failure to notify the Personnel Department of such conviction or guilty plea can be cause for termination. Any person convicted of, or who pleads guilty to, an alcohol-related or drug related offense occurring while on City premises, or on City business, or during the employee's working hours may be subject to discipline up to and including termination.

D. Submission to a Drug Test Required: The City may require testing of an employee or applicant under the circumstances set out below. Such testing may include blood testing, breath analysis, and urinalysis.

1. Pre-employment Testing.

- a. Every new applicant for a position with the City will be required to submit to a test for illegal drugs prior to employment with the City.
- b. When any City employee is promoted or rehired to any of the positions listed below, that employee will be required to submit to a test for illegal drugs.

(1) Police Department: Police Chief, Assistant Police Chief, Police Major, Police Captain, Police Sergeant, Police Corporal, Police Officer, Lead Police Dispatcher, Police Dispatcher, Warrant Service Officer, Police Detention Officer, Parking Enforcement Officer, Police Identification Officer, Police Evidence Technician, Police Chemist, Property Clerk, Reserve Police Officer.

(2) Fire Department: Fire Chief, Assistant Fire Chief.

(3) All positions in which the employee must maintain a commercial driver's license as a condition of his or her employment with the City.

(4) The director and assistant director of any City department, the City Manager, and Assistant City Manager(s).

(5) Any position for which a pre-employment physical examination is required.

c. When any position which requires drug testing as part of the hiring process is posted or advertised, the posting or advertisement shall state that drug testing will be required as part of the hiring process.

2. Unscheduled (Random) Testing. Employees in the job positions listed below will be subject to unscheduled (random) testing. Individual employees will be selected for unscheduled testing on a random basis by use of a computerized random selection software process under the direction and control of the Personnel

Department. In the selection process, employees will be identified by a number, with no reference to their name.

a. Police Department: Police Chief, Assistant Police Chief, Police Major, Police Captain, Police Sergeant, Police Corporal, Police Officer, Lead Police Dispatcher, Police Dispatcher, Warrant Service Officer, Police Detention Officer, Parking Enforcement Officer, Police Identification Officer, Police Evidence Technician, Police Chemist, Property Clerk, Reserve Police Officer.

b. All positions in which the employee must maintain a commercial drivers license as a condition of their employment with the City.

c. Any employee who has been convicted of or pleaded guilty to a drug or alcohol related offense may be subject to a reasonable program of unscheduled drug and/or alcohol testing for 12 months immediately following the conviction, guilty plea or return to work.

3. Reasonable Cause. Any employee may be directed to report for drug and/or alcohol testing when the employee's supervisor has reasonable cause to believe that the employee is an impaired employee. A supervisor making a reasonable cause referral must fill out a physical condition report before making the referral. The report shall be taken immediately to the Director of Personnel for approval of the referral. The Director of

Personnel shall make the contents of the report available to the testing agency. A videotape or audiotape recording, or other nonintrusive physical documentation (such as photographs) of an employee's behavior may be made for purposes of substantiating a reasonable cause determination. The employee must be informed that the videotape or other physical documentation is being made.

4. Post Accident. Any employee may be directed to report for drug and/or alcohol testing when the employee has been involved in a work-related accident or incident: (1) while the employee was operating a motor vehicle while on City business, or (2) where there is reasonable cause to believe that the employee was an impaired employee at the time of the accident.

E. Drugs to be Tested For: When any employee or applicant is required to be tested under the provisions of this policy, the test may include screening for any one or more of the following drug groups:

Drug Group	Examples
a. Alcohol	
b. Amphetamines/Methamphetamines	Speed, Crank, Crystal, Preludin, Bennies
c. Barbiturates	Amobarbital, Butabarbital, Phenobarbital,
Secobarbital	Downers, Red Devils,
Barbs,	Goof Balls
d. Cocaine	Coke, Crack, Flake, Snow
e. Opiates	Codeine, Heroin, Morphine,
f. Phencyclidine	PCP, Angel Dust, Wack,
Water	
g. Cannabinoids (THC)	Pot, Marijuana, Hash

F. Refusal to Consent to and Submit to Testing: An applicant who refuses to submit to a drug and/or alcohol test will not be hired for the position for which the applicant has applied. An employee who refuses to

submit to any drug and/or alcohol test required under this policy is subject to disciplinary action up to and including termination. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action.

G. Drug Testing Procedure:

1. Consent. Before a drug and/or alcohol test is administered, the employee or applicant to be tested will be required to sign a form provided by the testing agency authorizing the test and permitting release of test results to the City Personnel Director. The form will contain space for the employee or applicant to indicate current or recent use of prescription or over-the-counter medication and may direct the testing agency to contact the employee's treating physician for further information about the employee's use of such medication. This form shall not relieve the testing agency from liability for any damages the employee or the City might suffer as a result of the negligence of the testing agency.

2. Drug Testing Laboratory. When drug and/or alcohol testing is performed using urine or blood samples, the testing of the samples will be performed only by independent drug testing laboratories accredited by the National Institute on Drug Abuse (NIDA). Urine and blood samples will be taken at a site off City premises, as designated by the testing laboratory.

3. Chain of Custody. The chain of custody of any blood or urine sample which is collected shall be protected by a drug testing custody and control form.

4. Urine Testing. The urinalysis test will consist of both an initial screening test and a confirmation test (to be administered if the screening test results are positive). Test methods used will be those methods approved by the State of Missouri Department of Health as set out in the Missouri Code of State Regulations.

5. Blood Testing. Blood specimens will be analyzed by using the Gas Chromatography Mass Spectroscopy (GCMS) test, or any other method approved by the State of Missouri Department of Health as set out in the Missouri Code of State Regulations.

6. Breath Analysis. A Breath analysis may be used where reasonable cause is found to believe that an employee is under the influence of alcohol at work. Such test shall be conducted in the manner set out in the Missouri Code of State Regulations.

7. Tampering with Testing Sample. If it is determined that an employee has tampered with or adulterated a testing sample, or submitted a false

sample, the employee will be terminated. An applicant who has tampered with or adulterated a test sample, or who has submitted a false sample, will not be hired by the City.

H. Confidentiality of Testing Information: All information regarding the testing of applicants and employees shall be a closed record. Laboratory and test results shall not be placed in an employee's general personnel file, but shall be kept in separate folders that will be kept under lock and key under the control of the Director of Personnel, or any person serving in that capacity by approval of the City Manager. Test results will be released to the tested employee, upon the employee's request. Test results may be released to the following persons to the extent necessary for them to carry out their duties with the City: The employee's department director, the City Manager, a hearing officer appointed as part of the City's formal grievance procedure, the Law Department, the Personnel Board, and the City Council. Disclosure without employee consent is also authorized if: (a) Production of the information is compelled by law, or by judicial or administrative process; (b) the information has been placed at issue in a formal dispute between the City and the employee; (c) the information is to be used in administering an employee benefit plan; or (d) the information is needed by medical personnel for the diagnosis or treatment of the employee, and she or he is unable to authorize disclosure.

I. Consequences of a Positive Drug and/or Alcohol Test Result:

1. Applicants. Job applicants will be denied employment with the City if drug and/or alcohol tests administered pursuant to this policy show: (1) That the applicant is under the influence of alcohol; or (2) the applicant has a confirmed positive test for the presence of a drug tested for under this policy.

2. Employees. If an employee is found to be under the influence of alcohol or has a confirmed positive test result for a drug tested for under this policy, the employee is subject to disciplinary action up to and including termination. An employee may be removed from duty with pay pending receipt of the results of any test administered under this policy. Factors to be considered in determining the appropriate disciplinary response include the employee's work history, length of employment, current job performance, severity of the employee's drug and/or alcohol problem as related to job duties, the employee's willingness and ability to participate in a drug and/or alcohol rehabilitation program, and the existence of past disciplinary actions.

J. Medical Review Officer: The City will provide an independent medical review officer, who will be a licensed physician with knowledge of substance abuse disorders, to review confirmed positive test results of

an employee for the presence of a drug tested for under this policy.

The medical review officer will review and interpret the test results and will examine alternate medical explanations for any positive test result. This action could include: 1) conducting a medical interview with the employee; (2) review of the employee's medical history; and (3) review of any other relevant biomedical factors. The medical review officer will review all medical records made available by the employee when a confirmed positive test could have resulted from legally prescribed medication. The medical review officer will not, however, consider the results of blood or urine samples that are not obtained or processed in accordance with this policy.

The medical review officer will determine whether the employee's confirmed positive test result is: (1) Verified; (2) consistent with legal drug use; or (3) scientifically insufficient. If the medical review officer determines that a test result is consistent with legal drug use or scientifically insufficient it shall be treated as a negative drug test by the City.

**K. Temporary Impairment Due to Use of Prescribed Drugs:**

Employees who must use a prescription drug that causes adverse side effects, such as drowsiness or impaired motor skills, must inform their supervisor that they are taking such medication on the advice of a physician. The supervisor may place the employee on sick leave or temporarily assign the worker to different duties, as the best interest of the service may dictate.