

POLICY NO. 830.00 SUBSTANCE ABUSE POLICY

Purpose

The City recognizes the problem of substance abuse (including illegal drugs and misuse of alcohol, prescription drugs and over-the-counter drugs) in our society. If unchecked in the workplace, this problem could adversely affect both the productivity and effectiveness of our business and the professional, personal and family lives of our employees. The City will strive to balance respect for individual privacy with the need to keep a safe and productive work environment; however, the City is committed to and will aggressively pursue the goal of this policy. The City **INTENDS TO MAINTAIN A SUBSTANCE ABUSE-FREE WORKPLACE**. With that basic goal in mind, the City established this policy with regards to use, possession and sale of alcohol and drugs.

Prohibited Conduct

Illegal Drugs.

This policy prohibits any Employee from bringing onto City premises or property, having possession of, being under the influence of, possessing in the Employee's body, blood or urine in amounts exceeding predetermined cut-off levels, or using, consuming, transferring, selling or attempting to sell or transfer any form of illegal drug while on City business or at any time during the hours between the beginning and ending of the Employee's work day, whether on duty or not, and whether on City property or not.

For purposes of this policy, an "illegal drug" is any drug (a) which is not legally obtainable; (b) which may be legally obtainable but has not been legally obtained by the Employee; or (c) which is being used in a manner or for a purpose other than as prescribed for the Employee.

Alcohol

This policy prohibits any Employee from being under the influence of alcohol while on City business or at any time during the hours between the beginning and ending of the Employee's work day, whether on City property or not.

This policy also prohibits any Employee from bringing alcohol onto City premises or property or using, consuming, transferring, selling or attempting to sell or transfer alcohol while on City business or at any time during the hours between the beginning and ending of the Employee's work day, whether on City property or not, except as specifically authorized by the City.

Prescription and Over-the-Counter Drugs

This policy prohibits any Employee from abusing prescription medications or over-the-counter drugs while on City business or at any time during the hours between the beginning and ending of the Employee's work day, whether on duty or not, and whether on City property or not.

For purposes of this policy, "prescription or over-the-counter drug abuse" means taking medications that were prescribed for someone else; using prescription drugs or over-the-counter drugs for a purpose other than for which they were prescribed or manufactured or other than in accordance with the doctor's instructions or recommended dosages.

Employees are expected to consult with their physicians regarding the effect of medications prescribed for them and to consult any package warnings for over-the-counter drugs. When an Employee is taking a prescription or over-the-counter drug that can or will have an effect on the Employee's normal mental and/or physical state or interfere with work such as operating vehicles, machinery, equipment, etc., the Employee must inform his or her immediate supervisor to ascertain if employee is able to perform their job functions.

Substance Screening

The City shall require individuals to undergo drug or alcohol screening under the following circumstances:

1. Applicant Testing.

The City shall require any job applicant who has received a conditional offer of employment to undergo a drug and/or alcohol test as a condition of commencement of employment. If the job applicant refuses to undergo substance testing or

has a confirmed positive test result, the conditional offer of employment will be withdrawn, and the individual will not be hired.

2. Reasonable Suspicion Testing.

The City shall require any Employee to undergo drug and/or alcohol testing if it has a reasonable suspicion that the Employee is using or has used drugs or alcohol in violation of this policy.

By way of example only, a "reasonable suspicion" for purposes of this policy may be based upon such circumstances as physical symptoms or manifestations of being under the influence of drugs or alcohol or direct observation of drug or alcohol use while at work or on duty; a reliable, credible and independently corroborated report of drug or alcohol use while at work or on duty; evidence that an individual has tampered with a drug or alcohol test during his or her employment with the City; or evidence that the Employee is involved in the use, possession, sale, solicitation or transfer of drugs while on duty or while on City premises or operating the City's vehicles, machinery or equipment.

3. Post-Accident Testing.

When operating City vehicles and/or mobile equipment the City shall require an Employee to undergo drug and/or alcohol testing when involved in an incident in which injury and/or property damage occurs. Any accident in which a City Employee is operating a personal vehicle on City business, regardless of whether reasonable suspicion exists, will require a post-accident alcohol and drug test.

4. Random Testing.

Employees in positions requiring the performance of City safety-sensitive functions and employees in positions requiring a commercial driver's license are subject to random testing. The selection of employees for random controlled substance and alcohol testing will be made by a scientifically valid method. Under the selection process, each employee will have an equal chance of being tested each time selections are made and the City will not have the discretion to waive the selection of any Employee.

Safety sensitive positions involve job duties which if performed with inattentiveness, errors in judgment or diminished coordination, dexterity, or composure may result in mistakes that could present a real and/or imminent threat to the personal health and safety of the employee, co-workers, and/or the public. Including but not limited to: operating machinery (i.e. heavy equipment, hazardous tools, tec.); maintenance of vehicles and equipment; transporting people; carrying a weapon in performance of essential job functions; insuring the direct safety and protection of others and property, such as functions performed by lifeguards, police officers, firefighters, etc.).

Safety-sensitive positions subject to random testing under this policy shall be evaluated annually by the Human Resource Department.

5. Return-to-Duty and Follow-Up Testing.

The City shall require any Employee to undergo drug and/or alcohol testing without prior notice following a prior confirmed positive test. The City is not obligated to reinstate or rehire any employee who violates this policy. Should the City decide to reinstate, the individual will require evaluation by a Substance Abuse Professional (SAP) or qualified program and be subject to follow-up testing at the employee's expense.

6. Scheduled, Periodic Testing.

The City shall require any Employee to undergo drug and/or alcohol testing as part of a routinely scheduled fitness-for-duty medical exam to the extent such an exam is regularly conducted on the Employee. Also, Employee's shall be required to undergo drug and/or alcohol testing which is routinely scheduled for all members of the Employee's classification or group. The City shall schedule random drug and/or alcohol testing of its Employee pools. The City shall follow applicable federal regulations for employees required to possess commercial driver's licenses. Commercial drivers will have a designed classification for U.S. Department of Transportation (DOT) drug testing purposes and for the City to maintain required documentation. The City will also include commercial drivers (DOT pool) in the City's Employee pools for random testing purposes.

Substance Screening Methods

Initial tests for alcohol will almost always be through breath or saliva samples (blood samples may be used in limited situations). Initial tests for drugs will almost always be through urinalysis (blood samples may be used in limited situations).

If an applicant or Employee has a confirmed positive test result, the individual may explain the test results in confidence to the Medical Review Officer. An applicant or Employee who has received a positive test result may also request a retest of the same specimen in order to challenge the results of a positive test; however, the individual shall pay all costs of the retest, unless the retest reverses the findings of the challenged positive test, in which case the City shall reimburse the individual for the costs of the retest.

All samples will be collected in a manner that is designed to protect to the fullest extent possible individual privacy of Employees. Employees will not be subject to direct observation while rendering urine samples; however, if there is a valid suspicion that the Employee has tampered with a sample, preventive measures will be employed. If an Employee provides a sample that contains confirmed evidence of any form of tampering or substitution, this shall constitute a refusal to be tested and the Employee shall be subject to discipline in accordance with this policy.

All records and results pertaining to substance screening shall be maintained by the City as "Confidential" in the same manner as medical records. Any applicant or Employee who wishes to obtain information or records related to their individual drug or alcohol test may, however, have access to those records upon written request to the Human Resources Department.

Employee Notification of Criminal Drug Conviction or License Suspension

In accordance with the federal Drug-free Workplace Act, any Employee who is convicted of a violation of a criminal drug statute involving an on duty or off duty incident must notify the City within five days of conviction. Also, any employee whose driver's license is suspended must notify the City within five (5) days of receiving notice of suspension.

Employee Education and Assistance Program

In an effort to help Employees understand the issues surrounding substance abuse, the City has established an ongoing education program. This program includes information about the dangers of substance abuse, the City's Substance Abuse Policy, information about treatment services available and the penalties for violation of the Substance Abuse Policy.

The City also provides drug and alcohol dependency evaluation and referral services for substance abuse counseling, treatment and rehabilitation as part of an Employee Assistance Program. Employees are encouraged to seek assistance through this program and an Employee's decision to seek assistance from the Employee Assistance Program will not be used as the basis for disciplinary action prior to administering an alcohol or drug test which produces a positive result or other violation of this Policy. On the other hand, using the Employee Assistance Program will not be considered a defense to imposition of disciplinary action when the City becomes aware of a positive drug test or other violation of this Policy outside of the Employee Assistance Program.

Depending on the circumstances, the City may suspend the imposition of disciplinary action subject to an Employee's successful participation and completion in an alcohol or drug dependency treatment or rehabilitation program, but such suspension of disciplinary action shall be in the sole discretion of the City. No Employee shall be able to avoid disciplinary action for violation of this Policy if employee does not meet the standards of job performance established for their position even if the individual's lack of performance is due to alcoholism or drug dependency.

Consequences of Failure to Comply with this Policy

Any applicant who has been made a conditional offer of employment and who refuses to undergo substance testing or who has a confirmed positive result shall not be hired by the City. Any Employee who violates any provision of this Policy shall be subject to discipline up to and including discharge from employment, even for the first offense. This shall include any use, possession or sale of illegal drugs as prohibited by this Policy; any use or abuse of alcohol as prohibited by this Policy; and any prescription or over-the-counter drug abuse as prohibited by this Policy.

If a person is separated for violations of this policy, the individual may apply for rehire after completion of a treatment program. An Employee rehired after violation this policy will be subject to an individual schedule of random testing for two years. If the Employee tests positive in a follow-up test the Employee will be terminated. This (mandatory termination

provision) shall also include any refusal to submit to an alcohol or a drug test required by the City as outlined and in compliance with this Policy or any delay in submitting to such a test when requested.

The City of Kingsville shall not tolerate any use of non-prescribed drugs or alcohol. If an employee comes to work under the influence of drugs or alcohol or uses drugs or alcohol while on City business or at any time during the hours between the beginning and ending of the Employee's work day, whether on City property or not, disciplinary action will be taken up to and including termination of employment.

All decisions, determinations, or findings by the City regarding enforcement or administration of this policy shall not be subject to review by the TEAM Review Process or appeal to the civil service commission.

Compliance with Applicable Law

To the extent any portion of this Policy is determined to be contrary to the requirements of any applicable federal or state statutes, rules or regulations, it is the intent of the City to conduct its program prohibiting alcohol and drug abuse in the workplace and any alcohol or substance screening in connection therewith in accordance with those legal guidelines, and the City shall do so even if this Policy has not been modified to address such inconsistencies.

Responsibility for Administration

This Policy shall be uniformly administered to insure fairness to all Employees of the City. The Human Resource Department is responsible for administering this Policy. This responsibility includes: (1) communicating the Policy to all Employees; (2) disseminating drug and alcohol awareness information and making information regarding the Employee Assistance Program available to all Employees; (3) providing appropriate training to Department Directory personnel; and (4) administering this Policy fairly and consistently throughout the City. The City will provide advisory and technical assistance and is responsible for insuring uniform administration of the Policy throughout the City.

~~Approved: August 28, 2006~~
Approved: September 23, 2019
Resolution #
Effective Date: October 1, 2019