

## Drug- and Alcohol-Free Workplace

### 1013.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace.

### 1013.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

### 1013.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public. Such use shall not be tolerated (41 USC § 8103).

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Watch Commander or appropriate supervisor as soon as the member is aware that he/she will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, he/she shall be immediately removed and released from work (see Work Restrictions in this policy).

#### 1013.3.1 USE OF MEDICATIONS

Members should avoid taking any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to his/her immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Department while taking any medication that has the potential to impair his/her abilities, without a written release from his/her physician.

#### 1013.3.2 USE OF MARIJUANA AND ITS DERIVATIVES

Possession and or use of marijuana, including medical marijuana, use of cannabis or any cannabis related products or derivatives, or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

Derivatives of the cannabis plant, include but are not limited to, cannabis flower or bud, hashish, concentrated cannabis in any form, kief, cannabis oils or cannabis infused edibles. These derivatives may contain cannabinoids, mainly Tetrahydrocannabinol delta-9 / THC or Cannabidiol/ CBD, along with dozens of other cannabinoids that could affect the user's decision making and impair judgment.

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THC is the main psychoactive ingredient in cannabis and use will cause impairment in the end user. Many cannabis related products, even though advertised as being "THC free" contain cannabinoids that still may cause impairment.

### **1013.4 PROHIBITED CONDUCT**

#### **Manufacture, Trafficking, Possession, and Use**

An employee engaging in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or alcohol on City premises, in City vehicles or while conducting City business off the premises is prohibited. Violation will result in disciplinary action up to and including termination and other penalties as applicable by law.

#### **1013.4.1 ALCOHOL USE**

No employee may report for duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol. No employee shall use alcohol while on duty or while performing job functions. No employee shall use alcohol within four hours of reporting either for duty or during hours that he/she is on call. Violation of this provision is prohibited and will subject the employee to removal from duty.

### **1013.5 MEMBER RESPONSIBILITIES**

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

### **1013.6 EMPLOYEE RESPONSIBILITIES**

- (a) Employee shall not report to work while his/her ability to perform job duties is impaired due to on-duty or off-duty alcohol or drug use, nor shall an employee be impaired while he/she is on assigned, paid standby subject to being called to duty or on-call.
- (b) Employee shall not have in his/her possession any illegal drugs or have any alcohol readily accessible while on duty, on breaks, during meal periods, or on City property.

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- (c) Employee shall not use alcohol or drugs which may impair job performance during work hours, on breaks or during meal periods whether on City property or elsewhere, nor shall an employee use such alcohol or drugs while on assigned, paid standby subject to being called to duty.
- (d) Employee shall not, if in City uniform, purchase or possess alcohol or illegal drugs.
- (e) Employee shall not directly or through a third party sell illegal drugs or provide drugs or alcohol to be taken or consumed while on duty or on City premises to any person, including any employee, while either employee or both employees are on duty, breaks, or mealtime.
- (f) Employee may be subject to an investigation and to chemical testing for alcohol and/or drugs if his or her supervisor or a manager has reasonable suspicion that the employee is intoxicated or under the influence of illegal or impairing drugs or alcohol on the job, during work hours, on breaks, during mealtime or on City property. Upon this determination, employees shall submit immediately to an alcohol or drug test when directed to do so by a supervisor or management employee after consultation with Human Resources if possible. Any employee who refuses to submit to such testing or conducts himself or herself during such testing so as to induce a false, incorrect or invalid result shall be subject to disciplinary action up to and including termination. Refusal to submit to testing, or tampering with the test shall be cause for disciplinary action up to and including termination.
- (g) Employee should notify his/her supervisor and provide medication drug side effect information before beginning work, when taking any medications or drugs (prescription or non-prescription) which may interfere with the safe and effective performance of duties or operation of City equipment. No employee shall be permitted to work or drive a department-owned or leased vehicle while taking such potentially impairing medication without a written release from his or her physician.
- (h) Employee shall provide within a reasonable time (normally within 24 hours of a request) a bona fide verification from a physician or a current valid prescription for any prescription drug or medication taken or identified when a drug screen/test is positive. The employee may be instructed to provide a report from the physician describing the potential affects of the drug on the employee's job performance. The prescription must designate the employee as the person for whom the drug or medication is prescribed, not another individual. In the case of any non-prescription legal drug or medication, the employee may be required to produce identification of the drug along with indicated side affects identified by the manufacturer.

### **1013.7 EMPLOYEE ASSISTANCE PROGRAM**

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides

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treatment for drug and alcohol abuse also may be available. Employees should contact the Human Resources Department, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

### **1013.8 SUPERVISOR RESPONSIBILITIES**

**Managers and supervisors are responsible for enforcement of this policy.**

- (a) Managers and supervisors may request that an employee submit to a drug and/or alcohol test to be undertaken in a manner prescribed by this policy, when such managers or supervisors have a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol on the job or during breaks or meal periods.
- (b) "Reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol to the extent that the employee's ability to perform the functions of the job is impaired or to the extent that the employee's ability to perform his/her job safely is reduced.
- (c) Existence of reasonable suspicion shall be based upon the totality of the circumstances and will normally include more than one of the following factors. For example, except for possession, any combination of any of the following may constitute reasonable suspicion:
  - 1. Slurred speech;
  - 2. Alcohol odor on breath;
  - 3. Unsteady walking and movement;
  - 4. An accident involving the employee, City property and/or equipment or property where the cause may be symptomatic of suspected use of alcohol or drugs;
  - 5. Physical altercation;
  - 6. Verbal altercation;
  - 7. Deviation from employee's normal behavior;
  - 8. Possession of alcohol or drugs unrelated to job responsibilities
  - 9. Information obtained from a reliable person with personal knowledge;
  - 10. Increased absenteeism;
  - 11. Performance of work with reduced efficiency and/or effectiveness;
  - 12. Increased disciplinary actions.
- (d) Any manager or supervisor requesting that an employee be required to submit to a drug and/or alcohol test shall document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs. The manager or supervisor shall contact the Human Resources Director as soon as practical. The Human Resources Director and/or Chief of Police shall have the authority to order the employee to submit to a drug and/or alcohol analysis at a

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location and by methods approved by the City Manager. The manager or supervisor is responsible for arranging safe transportation for the employee to the collection site.

- (e) Any manager or supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis shall remind the employee of the requirements and disciplinary consequences of this policy and the disciplinary consequences of insubordination. Where there is reasonable suspicion that the employee is then under the influence of alcohol or drugs, the manager or supervisor should attempt to have the employee wait for a reasonable time for transportation to a safe and comfortable location. The employee should be transported safely to their home or to a location designated by the employee. Division Commanders shall be notified when an employee must be transported home. Management shall then proceed pursuant to this subdivision of this policy to investigate the employee and, depending on the results of the investigation, the employee may be subject to discipline up to and including termination consistent with the City's Personnel Rules and Regulations or appropriate City Administrative Policy as applicable.
- (f) Managers and supervisors shall notify their Division Commander or his or her designee when they have reasonable suspicion to believe that an employee may have alcohol and/or illegal drugs in his or her possession or in an area not jointly or fully controlled by the City in violation of this policy. If the Division Commander or designee concurs that there is reasonable suspicion of possession of drugs or alcohol, the Division Commander shall notify the Human Resources Director and Chief of Police, who in turn shall notify and receive direction from the City Manager. Managers and supervisors shall not physically search the person of employees, nor shall they search the personal possessions of employees without the freely given consent of, and in the presence of, the employee. Note that many areas are in the control or joint control of the City and are subject to inspection at any time. When reasonable suspicion exists concerning a Public Safety Officer, applicable provisions of Government Code 3300-3311 (Peace Officers Bill of Rights) shall be observed.

### **1013.9 WORK RESTRICTIONS**

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

### **1013.10 PHYSICAL EXAMINATION AND TESTING PROCEDURE**

The drug and/or alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, alcohol, heroin, cocaine, morphine and its derivatives, PCP, methadone, barbiturates, amphetamines, marijuana and other cannabinoids.

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#### 1013.10.1 PRE-EMPLOYMENT DRUG AND ALCOHOL TESTING AND ANALYSIS

- (a) Persons who apply for employment in the positions designated below with the City shall be informed in writing, when furnished with an application, that if they are offered employment in the position, it will be on the condition that they take a drug and alcohol test, and if the test results are positive for any of the substances being tested, they will be subject to being denied employment. Existing employees applying for transfer or promotion into the positions are also subject to the testing requirements and will be denied transfer or promotion if the alcohol or drug test is positive; however, an existing employee testing positive for alcohol or drugs will not suffer any negative effects in his or her current position as a result of failure to pass the drug or alcohol screen for the transfer or promotional position. Existing employees who are appointed in an acting capacity will not be subject to testing; however, prior to probationary appointment, the employee must pass the alcohol and drug screen for transfer or promotion.
- (b) All applicants offered employment with the City shall be given a copy of this policy and be required to sign a receipt.
- (c) All offers of employment with the City to the classifications listed below or to such other classifications as recommended by the Human Resources Officer and approved by the City Manager shall be conditioned upon the applicant's:
  - 1. Signing of a consent form, Appendix A to this policy;
  - 2. Submittal to a medical and chemical test for evidence of drug and/or alcohol use, designated by the City, and a repeat or confirmatory test if necessary; and
  - 3. Not being disqualified from employment based upon the result upon such test (including repeat test). Employment shall be denied if applicant refuses to sign the consent form or submit to the medical and/or chemical testing.
    - (a) All sworn Police personnel.
    - (b) All non-sworn Police personnel and other civilian general City classification assigned to the Police Department.
    - (c) All positions that require the employee to drive a City vehicle during the course of their normal duties.
    - (d) Upon recommendation by the Director of Administrative Services and approval of the City Manager, additional classifications may be added to the classifications subject to pre-employment drug and alcohol testing.
  - 4. If an initial drug screen is positive at the pre-employment physical, it will be confirmed by scientifically accepted methods and, if positive, the applicant must provide within a reasonable time (normally within 24 hours of request), bona fide verification of a valid current prescription for the drug identified in the drug screen or other medically acceptable explanation for positive test. The

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prescription must designate the applicant, not some other person, as the person for whom the drug or medication is prescribed. If the applicant does not provide acceptable verification of a valid prescription, or if the prescription is not in the applicant's name or if the drug is one that is likely to impair the applicant's ability to perform the job duties of the position, the applicant shall not be hired. However, the applicant can be reconsidered for employment after his/her use of the prescription drug ceases.

5. If an alcohol screen is positive, the results will be confirmed by scientifically sound methods. If the confirmatory screen is positive, the applicant shall not be hired.

### **1013.10.2 PHYSICALS OR ALCOHOL DRUG TESTS DURING EMPLOYMENT**

Supervisors may order an employee to submit to a chemical testing:

- (a) If an initial drug screen is positive, it will be confirmed by scientifically accepted methods and if positive, the employee must provide within a reasonable time (normally 24 hours of request) bona fide verification of a valid current prescription for the drug identified in the drug screen or other medically acceptable explanation for the positive test. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor of the use of a potentially impairing legal drug, the employee may be subject to disciplinary action, up to and including termination pursuant to Subsection (c) below.
- (b) If an initial alcohol screen is positive, it will be confirmed by scientifically accepted methods for alcohol or drugs. If the confirmatory screen is positive, the employee may be subject to disciplinary action, up to and including termination pursuant to Subsection (c) below.
- (c) If an employee's alcohol or drug test is confirmed to be positive for alcohol or drugs, the City shall conduct an investigation and consider the appropriate action to be taken. The decision to discipline or terminate will be carried out in conformance with the Personnel Rules and Regulations and/or other City policies.

### **1013.11 REQUESTING SCREENING TESTS**

The supervisor may request an employee to submit to a screening test under the following circumstances:

- (a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his/her ability to perform duties safely and efficiently.
- (b) The employee discharges a firearm, other than by accident, in the performance of his/her duties.

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- (c) During the performance of his/her duties, the employee drives a motor vehicle and becomes involved in an incident that results in bodily injury to him/herself or another person, or substantial damage to property.

### 1013.11.1 SUPERVISOR RESPONSIBILITY

The supervisor shall prepare a written record documenting the specific facts that led to the decision to request the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.
- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

### 1013.11.2 SCREENING TEST REFUSAL

An employee may be subject to disciplinary action if he/she:

- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.
- (c) Violates any provisions of this policy.

### **1013.12 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

### **1013.13 CONFIDENTIAL REPORTS**

Laboratory reports or test results of chemical tests shall not appear in an employee's official personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Director of Administrative Services. The report or test results may be disclosed only to persons whose knowledge thereof is necessary for performance of official duties or in administration of this policy. Disclosures, without employee consent, may also occur when:

- (a) 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 employer and employee;
- (c) The information is to be used in administering an employee benefit plan;



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- (d) The information is needed by medical personnel for the diagnosis or treatment of the employee who is unable to authorize disclosure; and,
- (e) Release or use of the information is otherwise permitted by law.

An applicant or employee shall receive, at his or her request, the results of any drug or alcohol test performed in accordance with this policy within a reasonable time after the results are available. When disciplinary action is recommended or proposed under this policy, the laboratory reports will be made available to the employee. Employees' and applicants' privacy and dignity will be respected during the drug or alcohol testing process, including collection of a specimen. If a urine sample is required, employees and applicants will normally be permitted to urinate in private under such conditions as will assure the privacy and dignity of the employee and the integrity of the sample. The only exception will be where it is anticipated that an employee or applicant will attempt to tamper with or substitute a sample. For example, where there is evidence that the employee or applicant has tampered with or substituted a previously given sample. In that case, medical personnel may take further reasonable measures, including auditory or visual observation of taking of the sample, as they deem necessary to assure the integrity of the sample.

### **1013.14 CONFIDENTIALITY**

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained separately from the employee's other personnel files.