

CITY OF WICHITA

SUBSTANCE ABUSE POLICY

PURPOSE

The City of Wichita has a public trust to provide a variety of services to the community. An efficient and productive workforce is vital to fulfill that responsibility. The public reasonably expects employees of the City to perform their duties free from the effects of substance abuse.

The employees of the City have a reasonable right to work in a safe environment, free from the effects of substance abuse. Additionally, the City has a reasonable expectation that its employees report to work fit for duty, prepared to carry out their responsibilities and be free from the effects of substance abuse.

The City recognizes that an employee's physical condition affects job performance, and that substance abuse ranks as one of the major health problems in our community. The statistical evidence reveals that employees who abuse alcohol and/or drugs are three to four times more likely to have accidents than other employees, are 2.5 times more likely to have extended absences and are five times more likely to be injured on the job. Therefore, the City seeks to hire and retain a workforce free of illegal and abused substances and to protect the public from the adverse effects of alcohol and drug abuse. It is the intent of this policy to express the City's viewpoint on substance abuse exhibited by behavioral/medical disorders, to encourage an enlightened viewpoint toward these disorders, and to provide guidelines for consistent handling of situations arising from substance abuse.

SCOPE

This policy applies to all employees of, and applicants for employment, with the City of Wichita. The policy supplements the following City policies U.S. Department of Transportation Alcohol and Controlled Substance Testing Policy (DOT), IAFF NON-DOT Alcohol and Controlled Substance Testing Policy (IAFF), and the NON-DOT Safety Sensitive Alcohol and Controlled Substance Testing Policy (NON-DOT).

RESPONSIBILITY FOR ENFORCEMENT

It is the responsibility of the Director of Human Resources, under the direction of the City Manager, to administer and enforce this policy and procedures, as outlined, in a consistent manner. The Director of Human Resources and each department director are responsible for ensuring that supervisors are properly trained and that employees have notice of this substance abuse policy. The Human Resources Department will assist supervisors in policy implementation, day-to-day administration, and with disciplinary action arising from the implementation of the policy.

It is the responsibility of each department director, division director, and supervisor to administer this policy. Any department director, division director or supervisor, who intentionally decides against testing or disciplinary action, when it is called for by this policy will be subject to appropriate discipline.

PROHIBITED ACTS

1. Alcohol. Being under the influence of alcohol by an employee while at work or while performing services on behalf of the City is prohibited. The possession or use of alcohol, while at work or while performing services on behalf of the City is prohibited.
2. Drugs. The possession, use, or being under the influence of an illicit drug by an employee while at work or while performing services on behalf of the City is prohibited. An illicit drug is a controlled substance, as defined by the State of Kansas Uniform Controlled Substance Act, as it may be revised from time to time, which is used in some manner without a prescription or medical supervision.

An employee's use of, or being under the influence of, a legally obtained drug which may affect the safety of the employee, his or her co-workers, or members of the public, is prohibited. An employee who has reason to believe that the use of a legal drug may present a safety risk to himself/herself or others should report that use to his/her supervisor to determine job-related consequences. Such an employee may be assigned other responsibilities or may be required to take a leave of absence or may be asked to comply with other remedies, if the use of legal drugs presents a safety risk.

3. **Intoxicating Substance.** Being under the influence of an intoxicating substance by an employee while at work or while performing services on behalf of the City is prohibited. An intoxicating substance is any substance which produces changes in one's physical, mental, or emotional state or behavior, including, but not limited to glue, paint thinner, etc.
4. **Drug Free Workplace Act.** The City of Wichita is covered by the Drug-Free Workplace Act of 1988. This requires that employees be prohibited to manufacture, distribute, dispense, possess or use a controlled substance in the workplace. Being under the influence of alcohol or drugs during working hours is prohibited by the Act.

APPLICANT SUBJECT TO TESTING

Offers of employment by the City will be made only contingent upon successfully completing a drug screening. This will be in addition to a satisfactory physical examination, background check, and any other requirement identified, when a contingent offer is made.

EMPLOYEES SUBJECT TO TESTING

1. Testing of alcohol and/or illicit drugs will be performed on employees when there is a reasonable suspicion that the employee is impaired.
 - a. A supervisor must document his or her reasonable basis for believing that the employee is reporting to work and/or working under the influence of alcohol or illicit drugs. This should be documented on the Observation Impairment Report, attached hereto, and should include the supervisor's observations of physical characteristics or behavior commonly attributed to alcohol or drug use.
 - b. If the initial report that an employee is under the influence of alcohol or illicit drugs is not from supervisor, testing will be performed only if:
 - 1) There is a report from a non-supervisory employee or member of the public, and
 - 2) One of the following occurs:
 - a) A supervisor subsequently and independently concludes that there is a reasonable suspicion that the employee is impaired; or
 - b) There are other behavioral indicators of substance abuse. In such a case, a substance abuse professional should be consulted, advised of the non-supervisory report and the behavior of the employee. Testing will only be done if the substance abuse professional concluded that there is a reasonable suspicion that the employee is impaired.
 - c. If an employee has a reasonable suspicion that a supervisor is impaired, their observations should be reported to the supervisor's immediate superior, the supervisor's division director, the supervisor's department director, or the Human Resources Department.
 - d. For the purposes of this policy reasonable suspicion that an employee is under the influence of alcohol or illicit drugs, the determination may include, but is not limited to:

- 1) disorientation, sleepiness, grogginess, glassy-eyed, or observable physical symptoms;
 - 2) the smell of alcohol or illicit drugs on the employee's body or clothing;
 - 3) erratic behavior, aggressive physical behavior, unusual loudness, flagrant disregard of established safety, security or operating procedures; or
 - 4) documented pattern of deteriorating performance, which may include excessive absenteeism or missing deadlines, insubordination or inability to work with others, or behaviors normally associated with substance abuse.
2. An employee involved in an on-the-job accident or injury that results in injury to persons or property shall be subject to an investigation. Employees will be directed to undergo a drug and/or alcohol detection test to aid in determining fitness for duty if there is reasonable suspicion that the employee was under the influence of drugs or alcohol at the time of the accident.
 3. Testing will be performed if an employee is observed by another City employee using alcohol, illicit drugs, or intoxicating substance, at work or while performing services on behalf of the City, according to provisions of 2.b. on page 2 under EMPLOYEES SUBJECT TO TESTING.
 4. Testing will be performed if an employee is observed by another City employee in the possession of, or distributing, illicit drugs, at work or while performing services on behalf of the City.
 5. Testing will be initiated by the department or division director, after reviewing or preparing the documentation and concluding that there is a reasonable basis for believing that the employee is impaired. Concurrence of the Director of Human Resources (or designee) should be obtained, if possible. Testing during second or third shifts should be reported to the Director of Human Resources (or designee) the following workday.
 6. Those subject to follow-up testing pursuant to this policy.

CONSEQUENCE OF NOT SUBMITTING TO A TEST

1. Applicants. Applicants who do not submit to the pre-employment testing at the appointed time will be denied employment for one year, unless they provide certified documentation of successful completion of a City-approved substance abuse rehabilitation program. Applicants who have completed a rehabilitation program will be subject to pre-employment testing prior to being considered for employment.
2. Employees. Any employee who refuses to submit to a drug and/or alcohol test as required by this policy or the policy will be terminated. Such an employee will not be considered for rehire for one year and must:
 - a) Provide documentation of either a successful completion of a City-approved substance abuse rehabilitation program, or documentation by a City-approved authority that a substance abuse rehabilitation program is not warranted;
 - b) Submit to pre-employment testing; and
 - c) Be otherwise eligible for rehire.
3. Any applicant or employee found to have tampered with test procedures or test results will be treated the same as any applicant or employee who refused to submit to a required test.

TESTING PROCEDURES

1. Supervisors shall take appropriate action to protect City personnel and City property by removing from the work premises or site any individual not in condition to perform assigned work in a normal and safe manner. An employee who appears to be under the influence of drugs or alcohol

shall be taken to an authorized facility for drug/alcohol testing. Employees shall not be allowed to drive any vehicle if it appears that they are under the influence of drugs or alcohol.

2. When a drug or alcohol test is required under the provisions of this policy, the test may screen for alcohol or any controlled substance, as defined by the Kansas statutes or federal law. In all cases, the drug test pursuant to this policy will include the following classes of substances:

Amphetamines/Methamphetamines
Barbiturates
Benzodiazepines
Cocaine
Marijuana/cannabinoids (THC)
Opiates
Phencyclidine (PCP)

These drug groups were selected based on known abuse in the community and the ability of each drug to adversely affect physical/mental performance. As new and/or existing drugs develop into abuse problems, they shall be included in the screening as deemed necessary by the City of Wichita.

3. A positive test result is:
 - a. An alcohol concentration level of .08, or as defined by the Kansas statute, will be considered conclusive evidence that the employee or applicant was under the influence of alcohol within the meaning of this Substance Abuse Policy. Evidence of a lesser concentration of alcohol will be considered along with other factors indicating impairment.
 - b. The existence of an illicit drug or intoxicating substance in the system of employee or applicant sufficient to cause impairment as determined by the medical facility performing the testing.
4. An employee or applicant whose drug test results were positive may, at the employee's or applicant's own expense, have a retest conducted of the original sample at a certified laboratory of the employee's choice. An employee or applicant shall request such retest within thirty days of being notified of the original test results. The laboratory used for the retest shall have chain of custody procedures to ensure proper identification, labeling and handling of test samples and proper exchange with and return of the samples to the original medical group or laboratory. Following review of the results of the retesting, a final determination will be made by the appropriate authority.

CONSEQUENCES OF POSITIVE TEST RESULTS

1. Pre-employment Test. Applicants who test positive, on the pre-employment test, for alcohol and/or illicit drugs will be denied employment for one year, unless they provide certified documentation of successful completion of a City-approved substance abuse rehabilitation program. Applicants who have completed a rehabilitation program will be subject to pre-employment testing prior to being considered for employment.
2. Testing of Employees. An employee who tests positive is subject to discipline, up to termination, even on a first offense.
 - a. An employee who tests positive pursuant to this policy, and has never tested positive previously, has no other disciplinary pending, and is not on a reckoning period for other discipline, will be subject to a minimum of:

- 1) Unpaid suspension of twenty (20) work days or 160 hours;

- 2) mandatory referral to an Employee Assistance Program for evaluation; and
 - 3) if a rehabilitation program is recommended following the evaluation by an Employee Assistance Program, satisfactory completion of the program.
- b. The discipline imposed on an employee who tests positive may be enhanced if:
- 1) The employee is on a reckoning period for other disciplinary matters.
 - 2) The employee engaged in conduct otherwise subject to discipline.
 - 3) The employee is one who is vested with significant public trust with regard to the enforcement of laws and whose substance abuse undermines that public trust, their credibility, and/or respect for the City government.
 - 4) The employee is a supervisor. Supervisors may be demoted to an available open position. If no position is available, a supervisor who tests positive may be terminated.
 - 5) The employee has tested positive in the past. The discipline of such individuals may include termination.
- c. An employee may return to work following the suspension and the evaluation, if the Human Resources Department receives notification from the Employee Assistance Program of one of the following:
- 1) No rehabilitation program is recommended;
 - 2) an out-patient rehabilitation program is recommended which permits the employee to return to his/her regular job and the employee is participating in the recommended program; or
 - 3) the recommended rehabilitation program has been completed.
- Additionally, any employee who has been suspended must pass a drug screen (if suspended for a positive drug test) or an alcohol test (if suspended for influence of alcohol), before returning to work.
- d. If a recommendation is made that the employee participate in a rehabilitation program and the employee does not satisfactorily participate in and complete a recommended rehabilitation program, he or she will be terminated.
- e. An employee who tests positive will be subject to follow-up testing for a minimum of one year as scheduled by the Human Resources Department. An employee who tests positive in a follow-up test will be terminated.
3. Employees who have disciplinary action taken against them as a result of a positive test result may file a grievance under the applicable grievance procedures.
 4. Nothing in this policy affects any criminal charges, criminal prosecution, or the consequences of any criminal charges or convictions.

CONSEQUENCES OF POSSESSION, USE, AND DISTRIBUTION

1. Alcohol. The verified possession, use, sale, or distribution of alcohol at work or while performing services on behalf of the City, will subject the employee to disciplinary action up to and including termination.
2. Drugs. The verified possession, use, sale, or distribution of any illegal drug, or any controlled substance or narcotic while at work or while performing services on behalf of the City, will subject the employee to disciplinary action, up to and including termination.
3. Prescription Medications. The possession or use of a controlled substance will not subject an employee to discipline, if the substance was ordered by the employee's physician, there is a

current, valid, medical prescription and the substance is being used in accordance with the prescription. Prescribed use must be substantiated by the employee's physician.

If the prescribed medical use of drugs adversely affects an employee's job performance and/or is detrimental to the public trust or safety of other employees or citizens, it is in the best interest of the employee and the City for the employee to be placed on a leave of absence or transferred to another available assignment where the impairment will not present a safety hazard. Leaves of absence will be granted in accordance with the current policies of the City's Administrative Personnel Policy and Procedure Manual and/or any applicable Memorandum of Agreement.

- 4. All illegal substances (as defined by criminal statutes) discovered during the investigation will be given to the appropriate law enforcement agency and may result in criminal prosecution. Drug or alcohol test results will be used for administrative purposes only and will be kept confidential, unless disclosed in unemployment proceedings or subpoenaed because of legal action.
- 5. Law Enforcement personnel who may be required to possess, use, sell, or distribute alcohol or any illegal substance as part of their normal work duties shall not be deemed in violation of any provision of this policy for such work.

This policy is intended to be a unilateral expression of the general policies, procedures and guideline concerning substance abuse and the City's personnel program. The City Manager may make exceptions, as he/she deems appropriate. It is not intended to create any contractual rights of employment, either express or implied, between the City and its employees. The City of Wichita reserves the right to change the provisions of the personnel program and this policy at any time.

Adopted this _____ day of _____, 2007

George Kolb, City Manager

OBSERVATION OF IMPAIRMENT REPORT

To use when behaviors are observed that may indicate an employee is impaired by use of alcohol and/ or other controlled substances. This form should be completed and signed by the person(s) who observe the behavior, and also signed by a supervisor.

Name of employee observed _____

Department _____ Division _____

Observers _____

Time of observation _____ Location _____

In each category below, circle all of the descriptions given that apply to the observed employee's behavior.

<i>CATEGORY</i>	<i>DESCRIPTIONS</i>					
<i>Demeanor:</i>	Normal	Agitated	Aggressive	Passive	Cooperative	
<i>Speech:</i>	Normal	Slurred	Loud	Quiet	Rambling	Incoherent
<i>Eyes:</i>	Normal	Bloodshot	Dilated	Closed	Moist	
<i>Breath:</i>	Normal	Alcohol Odor	Marijuana Odor			
<i>Coordination:</i>	Normal	Fumbling	Jerky	Slow Reacting		
<i>Actions:</i>	Normal	Talkative	Threatening	Calm	Erratic	
<i>Skin:</i>	Normal	Sweaty	Flushed	Pale	Clammy	
<i>Walking:</i>	Normal	Unsteady	Staggering	Slow		
<i>Standing:</i>	Normal	Swaying	Rigid	Feet Wide Apart		

Other observations that indicated impairment (write in below):

Signatures of observers: _____

 Supervisor's Signature Date _____