

## SECTION SIXTEEN

### DRUG & ALCOHOL FREE WORKPLACE

In the interest of safety, health and performance of our workforce and our citizens the City of Treasure Island requires, as a condition of continued employment, that employees remain drug free. The policies and procedures contained in this section are for the purpose of achieving that goal.

This policy is implemented pursuant to the Drug Free Workplace Program under the Florida Workers' Compensation Act, FLs. Statute section 440.102 and attendant Rules Section 59A-24.001, et seq., F.A.C. This act provides that any employee who is injured in the course and scope of employment and test verified positive on a drug or alcohol test, may forfeit his/her eligibility for medical and indemnity benefits under the Florida Workers' Compensation Act, and may be terminated and denied unemployment benefits. Further, refusal to take a drug or alcohol test will also result in the employee forfeiting his/her eligibility for medical and indemnity benefits under the Florida Workers' Compensation Act, as well as possible termination of the employee and denial of unemployment benefits.

The City prohibits employees from bringing onto the City's premises or job sites; having possession of; being under the influence of; possessing in the employee's body, blood or urine, or using, consuming, transporting, selling or attempting to sell, giving away any illegal drugs (including prescription drugs illegally obtained or prescribed for the individual only), or alcohol, at any time. Employees found participating in any of the above activities are guilty of misconduct and shall be discharged.

#### **16.1 TYPES OF TESTING**

The City may and to the extent permitted by law, will use testing as one of the several means of enforcing its drug free workplace policy. Testing will be conducted in the manner and circumstances listed below, including reasonable suspicion testing which may be drawn from inferences or facts. All drug screens (with the exception of pre-employment and annual fitness for duty drug screens) will include alcohol testing. The list that follows is considered all inclusive:

- A. Pre-employment;
- B. Reasonable suspicion of substance abuse: Any employee reporting to work who demonstrates impaired conduct considered unsafe for the performance of his/her job duties or if an employee becomes similarly impaired on the job, will be observed and/or interviewed by a supervisor to determine the cause of the irregular behavior.

If the supervisor concludes that the irregular behavior is unsafe, the employee will not be allowed to continue working and shall be transported to a medical facility for drug testing. The employee will not be allowed to drive any vehicle.

Reasonable suspicion testing shall also be conducted when there is:

1. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug or alcohol; odor of alcohol on the breath.

2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
3. A report of drug use, provided by a reliable and credible source; A report of alcohol use within a time period prior to reporting for duty that would cause one to reasonably expect that alcohol would be detected by intoxilyzer testing.
4. Evidence that an individual has tampered with a drug test during his employment;
5. Information that an employee has caused, contributed to, or been involved in an accident while at work;
6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery or equipment.
7. Evidence that an employee has been arrested and charged with use, possession, or sale of illegal drugs or a controlled substance, whether on or off the job.

Supervisors will document their observations and conduct an employee interview. Final disposition of the incident will be documented with the signatures of the supervisors/department heads, and dated. A copy of the Confidential Supervisor's Incident Report will be provided for the employee with the employee's signature of receipt.

- C. Following on-the-job accidents resulting in personal injury or significant property damage; Note: employees may not use alcohol for eight (8) hours following an accident or until the post-accident alcohol test is conducted, whichever comes first.
- D. Fitness for duty medical examinations;
- E. Employees participating in a substance abuse rehabilitation program (subject to quarterly testing during and for a period of two years after completion of program);
- F. Random testing: The following employees are subject to random testing for substance abuse at any time during working hours:
  - Employees whose job requires them to operate any city vehicle or use their own vehicle for city business.
  - Employees whose job requires them to operate machinery or heavy equipment.
  - Employees in public safety occupations such as police officer, firefighter, or emergency medical personnel.

The selection of employees for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table of a computer-based random number generator that is matched with an identifying number. Under the selection process used, each employee shall have an equal chance of being tested each time selections are made. There is no limit to the number of times any employee may be tested.

The minimum annual percentage rate for random controlled substances testing shall be 50 percent of the average number of employees.

G. Any discharge of a firearm in the line of duty that is not training related.

## 16.2 ANALYSIS

The testing performed will analyze a breath, urine or blood specimen for the presence of any of the following substances or a metabolite of the substance:

1. Alcohol - Ethyl alcohol as a beverage or as part of a medication;
2. Marijuana - Cannabinoids, THC;
3. Cocaine;
4. Methadone - Dolophine, Methadose;
5. Barbiturates - Nembutal, Tuinal, Seconal, etc;
6. Amphetamines - Desoxyn, Biphedamine, Dexedrine, etc;
7. Methaqualone - Quaaludes;
8. Opiates - Codeine, Percodan, Paregoric, Morphine, etc;
9. Propoxyphene - Darvon, Dolene, etc;
10. Phencyclidine - (PCP);
11. Benzodiazepines - Librium, Valium, Xanax, Serax, Halcyon, etc.

Testing may also include designer drugs or other abused substances as added by federal or Florida Statutes.

Levels of detection for a positive drug result for screening and confirmatory tests will be those established by the United States Department of Health and Human Services for the Federal Guidelines on Drug Testing.

Alcohol testing will be conducted using evidential breath-testing devices approved by the National Highway Transportation Safety Administration. Two breath tests are required to determine if an employee has a prohibited alcohol concentration. A screening test is conducted first. A confirmation test must be conducted if the screening test detects any alcohol. A confirmed result indicating a blood alcohol concentration of .02 or greater will be considered a positive test.

A list of the most common drugs or medications by brand name, common name, as well as chemical name, which may alter or affect a drug test, is available to all job applicants and employees at the time of testing.

A form will be provided for employees or job applicants to voluntarily and confidentially report to a Medical Review Officer, the use of prescription or non-prescription medications both before and after being tested. Providing this information shall not preclude the administration of the drug test, but shall be taken into account in interpreting any confirmed positive test result.

The use of legal drugs, that is drugs prescribed by licensed physicians for a specific medical purpose is often necessary. However, such drugs can and often do have a direct impact on the vigilance, judgment and/or coordination of the employee and can adversely affect the employee's job performance and the employee's ability to work in a safe and efficient manner.

Therefore, an employee for whom a licensed physician or dentist prescribes a controlled substance should discuss whether or not this prescribed drug will affect their ability to conduct their job in a safe and efficient manner. It is the employee's responsibility to report if a doctor indicates their prescription could create a direct threat to the health or safety of the employee or others, or impairs their ability to perform the essential functions of his/her job. Should the restrictions be such that the City cannot accommodate, the City may temporarily reassign the employee or request the employee to take sick leave during the period of treatment. Detection of controlled substances will be presumed to be in violation of this policy unless the employee has advised the City of its medicinal use in advance.

The City respects the privacy of an employee's legal use of medication. The name of the medication you are taking need not be revealed to the City. Only the effects of such, and any accommodations that are needed, are required to be revealed. It will be up to the Medical Review Officer to determine if the medication interceded with a drug test or the unsafe performance of your job.

### **16.3 TEST RESULTS**

Specific confirmation testing will be performed for all positive test results. Employees testing positive for prescription drugs that are commonly abused must produce evidence from their attending physician to justify the treatment necessity for use of the drug(s).

Within five working days after receipt of a confirmed positive test result from the Medical Review Officer, the employer shall inform the employee or job applicant in writing of such confirmed positive test results, the consequences of such results, and the options to the employee or job applicant.

The employer is responsible for testing costs, except for test costs that are involved with an employee or job applicant who challenges the initial test results.

#### **Consequences of Positive Test or Test Refusal**

Refusal or failure to submit to testing, or a confirmed positive test result following an on the job accident or injury, shall disqualify an employee from workers' compensation benefits.

Confirmed positive test results shall eliminate applicants from employment consideration.

Failure to participate in random, reasonable suspicion, pre-employment, fitness for duty or other City designated drug or alcohol testing shall result in termination of employment.

Any employee with a confirmed positive test result shall be terminated from employment.

Refusal or failure to submit to testing following an on-the-job accident shall result in termination of employment.

In the event that an employee informs the employer in writing of employee's abuse of alcohol/drugs prior to reporting for duty and prior to being notified to report for testing, no disciplinary action shall be taken against the employee ; provided, the employee signs a rehabilitation agreement and enrolls in an approved rehabilitation/treatment program. Sick leave and/or vacation may be utilized for rehabilitation and treatment. If sick leave and vacation credits have been exhausted, the employee may request leave of absence, without pay. No employee will be granted more than one such rehabilitation opportunity.

Employees who are granted a leave of absence under this section must complete all EAP, medical and other rehabilitative requirements established by the City for them within a reasonable amount of time in order to be considered for return to work. The employee shall be given no service credit, pay (other than accrued sick and vacation) or accrue any benefits for the period of absence.

### **Challenging Test Results**

The employee or job applicant desiring to challenge a confirmed positive drug test result will be responsible for notifying the original testing laboratory of an alternate HRS licensed laboratory, for the purpose of transferring, under Chain of Custody, a portion of the employee or job applicant's specimen for re-testing. The employee may have a portion of their original specimen re-tested during a period of 180 days following written notice of a positive test result. When an employee challenges the result of a confirmed positive test it shall be the employee's responsibility to notify the laboratory and the sample shall be retained by the laboratory until the case is settled.

Concerning denials of workers' compensation benefits due to a positive test result, an employee may undertake an administrative challenge by filing a claim for benefits with a Judge of Compensation Claims. Other challenges of a confirmed positive test result, not involving work place injuries, must be filed in a court of competent jurisdiction.

Employees or job applicants may consult with the Medical Review Officer for technical information regarding prescription or non-prescription medications that may affect test results.

Job applicants or employees whose drug test results are confirmed positive shall not, by virtue of the result alone, be defined as having a "handicap."

### **16.4 CONFIDENTIALITY**

All drug test information, reasonable suspicion reports, or other related information concerning an individual will remain confidential and will not be disclosed except for conditions described in Florida Statutes. Release of such information under any circumstances other than those described in Florida Statutes, will be solely pursuant to a written consent, voluntarily signed by the person tested.

### **16.5 EMPLOYEE ASSISTANCE**

Employee assistance with substance abuse and other personal problems is available 24 hours a day through the City's Employee Assistance Program (EAP). Additional information about the City's EAP Program can be obtained by contacting the Personnel Department.

If you or a family member has a substance abuse problem, you are encouraged to call and get confidential help now.

Waiting until you test positive at work is too late!