

	City of Cedar Park Human Resources Manual		
	Drug and Alcohol Free Workplace		
	Number: G-9	Revision: 2	Effective Date: 5/10/2018

1.0 Policy

It is the policy of the City to provide a work environment that is free from the use, consumption, sale, distribution, or possession of controlled or illegal substances or alcohol. An employee is required to report to work in appropriate mental and physical condition to perform their job in order to deliver service in a safe, efficient, and conscientious manner. Nothing contained in this policy is intended to prohibit, limit or restrict the lawful operations of the City of Cedar Park Police Department.

2.0 Procedure/Rule

2.1 This policy is applicable to all employees of the City.

City positions requiring a commercial driver's license (CDL) are also subject to specific regulations by the U.S. Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA), 49 C.F.R. Parts 40 and 382, as amended. To the extent of any conflict between this policy and the federal regulations, the federal regulations shall control as to such employees. Employees are encouraged to contact the Human Resources Department with any questions regarding these federal regulations.

2.2 Prohibited Conduct. An employee of the City is prohibited from engaging in the following conduct while on the job:

2.2.1 Using, purchasing, possessing, selling or otherwise distributing prohibited drugs. However, an employee's possession of unopened containers of alcohol, or consumption of limited and non-intoxicating quantities of alcoholic beverages after an employee's work day during City-sponsored functions or for business purposes does not violate this policy.

2.2.2 Reporting for work during normal working hours, including reporting from lunch or break, or remaining on the job while under the influence of any prohibited drug.

Being under the influence is defined as having a blood alcohol concentration of .02 or more, or the state of not having the normal use of mental or physical faculties by reason of the introduction into the body of a Prohibited Drug.

2.2.3 Employees holding a CDL required for their positions are further prohibited from using prohibited drugs while on-call or within the four hours prior to reporting for work requiring performance of a safety-sensitive function.

2.3 Exposure. Employees who believe they have been exposed to a prohibited drug during the performance of their duties shall immediately report it to their supervisor.

2.4 Use of Prescription or Over-The-Counter Drugs. The legal, authorized and intended use of prescribed drugs or over-the-counter medication is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger others. An employee shall advise their supervisor if the employee is taking a prescription or over-the-counter drug that may adversely affect the employee's ability to safely perform the functions of their position. It is the employees' responsibility to ascertain from their physician whether the prescription drug can or is likely to have an adverse impact on the employee's performance of their duties. If the medically approved and appropriate use of a prescription drug or over-the-counter drug adversely affects the employee's work performance or the safety of the employee or others, the City reserves the right to limit, suspend or modify the employee's work activity, or otherwise reasonably mitigate such adverse effect or risk.

2.5 Testing

2.5.1 Pre-employment. All applicants who receive a conditional offer of employment for positions deemed Safety Sensitive are required to take a pre-employment drug test. A positive drug result, refusal to test, or attempts to alter or tamper with a sample or any other part of the test, will render the applicant ineligible of consideration of employment.

An employee who transfers into a position which requires a CDL shall be tested before the employee may perform any safety-sensitive function.

2.5.2 Reasonable Suspicion. Any time reasonable suspicion exists that an employee may have violated the provisions of this policy, the City may require the employee to submit to drug or alcohol testing, which may consist of chemical analysis of

one or more of the following substances: blood, breath or urine.

2.5.2.1 Reasonable suspicion shall mean suspicion based upon observation and/or fact, which would lead a reasonably prudent person to believe it is likely that the employee in question is under the influence of prohibited drugs or prescription or over the counter drugs which have an adverse effect on the employee's performance or behavior.

2.5.2.2 A supervisor shall immediately report any unusual or impaired behavior by an employee believed to be under the influence of illegal drugs or alcohol to the Department Head or designee and the Human Resources Department. An employee shall immediately report to their supervisor any unusual or impaired behavior by an employee believed to be under the influence of illegal drugs or alcohol. A trained Human Resources representative or selected trained managerial staff shall determine whether the employee should be examined by a physician and/or tested for drugs and/or alcohol. Unusual behavior or appearance includes the following, but is not limited to:

- Slurred speech;
- Unusual drowsiness, irritability, or jumpiness;
- Odor of alcoholic beverage or illegal drug on or about the person, including on their breath;
- Inability to concentrate or complete tasks;
- Overall disorientation;
- Physical impairment;
- Pattern or repetitive series of accidents; and/or
- Discovery of drug paraphernalia or detectable amount of prohibited drug in employee's possession or area of control.

2.5.2.3 When it is determined by Human Resources or trained managerial staff that reasonable suspicion exists, the employee will be required to stop working and asked to submit to a drug and/or alcohol test. The supervisor or designated person will drive the employee to a City approved testing site. Under no circumstances will the employee be allowed to drive. The supervisor or designated person shall stay with the employee being tested and upon returning to the worksite, shall arrange for the employee to be driven home. Employees asked to submit to an alcohol

or drug test will be placed on administrative leave with pay until results are made available.

2.5.2.4 A written record of the observations leading to a determination of reasonable suspicion shall be made within 24 hours of the observations and signed by the supervisor or employee making such observations.

2.5.3 Post-Accident Drug Testing. Refer to *Use of City Property and Accident Reporting* policy.

2.5.4 Random. Employees holding a CDL required for their position or whose positions are deemed safety sensitive will be subject to random Drug and Alcohol testing without advance notice. See *Safety Sensitive Position* Appendix in this policy. While senior management positions are not deemed Safety Sensitive, those employees are welcome and highly encouraged to voluntarily participate in the random drug testing.

Ten percent (10%) of the number of employees holding positions deemed “Safety Sensitive” will be randomly tested for drugs biannually. Five percent (5%) of the number of employees holding positions deemed “Safety Sensitive” will be randomly tested for alcohol biannually. An employee selected will be notified by the Human Resources Department or designee at any time before, during, or after the employees work shift. The selected employee will undergo the City’s Drug and Alcohol Testing immediately following such notification. Employees will be selected for random Drug Testing through the use of a random selection computer program and administered by a third party vendor.

2.5.5 Additional Provisions for Employees Holding Required CDLs. The following shall apply only to an employee holding a CDL required for their position:

2.5.5.1 Return-to-Duty Testing. The City will test any employee returning to duty after a violation of any provision of this policy and completion of any required substance abuse professional evaluation, referral, and/or education/treatment process, in accordance with FMSCA regulations.

2.5.5.2 Follow-Up Testing. The City will perform follow-up testing of any employee returning to duty under Section 2.5.5.1 who has been identified by a substance abuse

professional as needing further assistance, in accordance with FMSCA regulations.

2.5.5.3 Testing Procedures. All tests pursuant to this policy of employees holding a CDL required for their positions shall comply with all FMSCA standards and procedures.

- 2.6 Failure or Refusal to Submit to Testing. Failure or refusal of an employee to submit to drug or alcohol testing as required by this policy shall be grounds for disciplinary action, up to and including termination of employment. An employee holding a CDL required for their position who fails to submit to required testing shall immediately be prohibited from performing safety-sensitive functions or driving a City motor vehicle.
- 2.7 Tampering with Specimen. Employees found to have tampered with the specimen will be subject to disciplinary action up to and including termination.
- 2.8 Employee Assistance Program. The City encourages employees to voluntarily seek assistance for an alcohol or drug problem before the problem manifests itself in a violation of this Policy. Inquiries about assistance will be kept confidential and shall be disclosed only to those persons with a legitimate business need to know the information. Employees who voluntarily seek treatment BEFORE being asked to submit to an alcohol and /or drug test will not be disciplined and will be given the opportunity to complete rehabilitation. [Employees involved in law enforcement activities who come forward with current or past use of illegal drugs may be subject to disciplinary action or termination under this subsection at the discretion of the Chief of Police, who will consider the recentness of the illegal drug use.]

An employee who is being treated for an alcohol or other drug problem may be placed on medical leave of absence by the City, and shall be subject to all rules, policies, and procedures governing such leaves of absence.

These guidelines apply only to one requested leave of absence. Any request for an additional leave of absence under the Employee Assistance Program shall be handled on a case-by-case basis and granted only at the sole discretion of the City, and as permitted by law.

- 2.9 Consequences of Violation. **The City shall consider any violation of this policy to constitute severe misconduct,** and shall take appropriate disciplinary action against an employee who violates this policy, up to and including termination from employment.

2.10 Definitions.

2.10.1 Medical Review Officer: A licensed physician responsible for receiving laboratory results generated by the City's Drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's verified positive test results together with their medical history and any other relevant biomedical information.

2.10.2 Prohibited Drug: (i) prescription drugs or over-the-counter drugs that are not being used as intended, or which were obtained under false pretenses; (ii) prescription drugs that were not prescribed to the affected employee by a licensed physician; (iii) illegal drugs; (iv) inhalants; and (v) alcoholic beverages.

2.10.3 Safety Sensitive: Includes the positions identified on the attached Appendix, which includes those relating to public safety and health, requiring driving of a vehicle with crews of people as an essential component of the job, and carrying a potential to inflict serious injury or death if a momentary lapse of judgment were to occur.

2.10.4 Tampering: Includes but is not limited to, diluting the specimen with water, adding any other substance to the specimen, or substituting specimens. Possession of a specimen when an employee or applicant reports to the laboratory shall constitute tampering.

2.10.5 Testing: Includes analysis of a specimen, which can include blood, breath or urine.