



**Drug and Alcohol Policy**

<b>Policy Topic:</b> Drug and Alcohol Use
<b>Policy Contact:</b> Human Resources
<b>Version:</b> VI
<b>Effective Date:</b> 8/10/15
<b>Approved By:</b> HR/Legal/City Manager

**Application**

The provisions in this policy apply to all employees (including contract/temporary), all applicants for employment, and volunteers.

**Statement of Policy**

In compliance with the Drug-Free Workplace Act of 1988, the City of Waynesboro has a longstanding commitment to provide a safe, quality-oriented and productive work environment. Alcohol and drug abuse poses a threat to the health and safety of the City employees and to the security of the City’s equipment and facilities. Workers with a drug or alcohol problem are 270% more likely to have a workplace accident, and almost 20% of workplace fatality victims had been drinking or were under the influence of illegal substances at the time of the accident. For these reasons, the City of Waynesboro is committed to the elimination of drug and alcohol use and abuse in the workplace.

**Substance Abuse Awareness**

Illegal drug use and alcohol misuse have many serious adverse health and safety consequences. Information about those consequences and sources of help for drug or alcohol problems is available from the HR department, which has been trained to make referrals and to assist employees with drug or alcohol problems.

**Employee Assistance**

Employees should report to work fit for duty and free of any adverse effects of illegal drugs or alcohol. This policy does not prohibit employees from the lawful use and possession of prescribed medications. Employees must, however, consult with their doctors about the medications’ effect on their fitness for duty and ability to work safely, and they must promptly disclose any work restrictions to their supervisor. Employees should not, however, disclose to the City underlying medical conditions unless directed to do so.

Once work performance has been affected, unless otherwise required by the Family and Medical Leave Act or the Americans with Disabilities Act, the employee will have forfeited the opportunity to be granted a leave of absence for treatment, and possible discipline, up to and including termination, will be unavoidable.

**Work Rules**

1. Whenever employees or volunteers are working, are operating any City vehicle, are present on City premises, or are conducting City-related work offsite, they are prohibited from:
  - a. Using, possessing, buying, selling, manufacturing, or dispensing an illegal drug (to include possession of drug paraphernalia).
  - b. Being under the influence of alcohol or an illegal drug as defined in this policy.
  - c. Using or taking over-the-counter (“OTC”) or prescribed medication contrary to its proper or prescribed use.
  - d. Possessing or consuming alcohol.

2. The presence of any detectable amount of any illegal drug or illegal controlled substance in an employee or volunteer's body system, while performing City business or while in a City facility, is prohibited.
3. The City will also not allow employees or volunteers to perform their duties while taking prescribed drugs that are adversely affecting their ability to safely and effectively perform their job duties. Employees and volunteers taking a prescribed medication must carry it in the container labeled by a licensed pharmacist or be prepared to produce it if asked.
4. Any illegal drugs or drug paraphernalia lawfully discovered will be turned over to an appropriate law enforcement agency and may result in criminal prosecution.

**Required Testing**

As a condition of employment or continued employment, employees agree to undergo any or all of the following applicable drug and alcohol tests as required.

1. Pre-employment
  - a. All applicants must pass a drug test before beginning work. Refusal to submit to testing will result in disqualification of further employment or volunteer consideration.
    - i. In accordance with the City's Police Department General Order 1.09, all applicants, internal or external, are offered and accept a position (auxiliary included) with the City's Police Department must pass a drug test before beginning work.
    - ii. Refusal to submit to testing will result in disqualification of further employment.
  - b. Employees with a break in service will be retested.
2. Reasonable suspicion
  - a. "Reasonable suspicion" means the supervisor, based upon objective facts and reasonable inferences drawn from those facts, whether observed firsthand or based upon the report of others, believes that the employee may be under the influence of a controlled substance or alcohol. Employees and volunteers are subject to testing based on (but not limited to) observations by the supervision of apparent workplace use, possession, or impairment. By way of example, and without limitation, any of the following conditions, alone or in combination, may comprise reasonable suspicion:
    - i. Odors: Smell of alcohol or drugs.
    - ii. Speech: Slurred, slow, distracted mid-thought, inability to verbalize thoughts.
    - iii. Eyes: Dilated, constricted, watery, involuntary eye movements.
    - iv. Face: Flushed, sweating, confused or blank look.
    - v. Emotions: Argumentative, agitated, irritable, and/or drowsy.
    - vi. Movements: Unsteady, fidgety, dizzy.
    - vii. Inactions: Sleeping, unconscious, no reaction to questions.
    - viii. Unexplained hyperactivity or depression and withdrawal.
    - ix. Bizarre, unusual, or uncharacteristic behavior.
    - x. Possession of alcohol or illegal drugs; or the presence of alcohol, alcohol containers, illegal drugs, or drug paraphernalia in an area subject to an employee or volunteer's control.
    - xi. Inability to focus or concentrate on the job task.
    - xii. Drop in performance.
    - xiii. Chronic or unexplained tardiness and/or absenteeism.
    - xiv. Decline in personal appearance or hygiene.
    - xv. Upon other reasonable credible evidence or observation.
  - b. Supervisors/Managers will document, in writing, the facts constituting reasonable suspicion.
  - c. The Supervisor/Manager will communicate the facts constituting reasonable suspicion to the employee or volunteer.

- d. Under no circumstances will the employee or volunteer be allowed to drive themselves to the testing facility. A member of supervision/management must escort the employee or volunteer to the testing facility; the supervisor/manager will make arrangements for the employee or volunteer to be transported home.
  - e. An employee or volunteer refusing to consent to a drug or alcohol test is considered an act of insubordination and will be subject to disciplinary action up to and including termination.
  - f. The supervisor/manager will notify the Police Department when they have a reasonable suspicion to believe that an employee or volunteer may have illegal substances in their possession.
3. Post-accident
- a. Employees and volunteers are subject to testing when they cause or contribute to accidents that damages a City vehicle, machinery, equipment or anyone's property or result in an injury to themselves, another employee, or any individual.
  - b. In any of these instances, the investigation and subsequent testing should take place as soon as practicable. Under no circumstances will the employee or volunteer be allowed to drive themselves to the testing facility. A member of supervision/management must escort the employee or volunteer to the testing facility; the Supervisor/Manager will make arrangements for the employee or volunteer to be transported home.
  - c. An employee or volunteer refusing to consent to a drug or alcohol test is considered an act of insubordination and will be subject to disciplinary action up to and including termination.
  - d. Employees involved in motor vehicle accidents will be subject to applicable state laws.
4. Random
- a. The City will randomly test employees and volunteers who work in high-risk or safety sensitive positions for compliance with its Drug and Alcohol Policy.
    - i. As used in this policy, "random testing" means a method of selection of certain employees and volunteers for testing, performed by an outside third party.
    - ii. The selection will result in an equal probability that any employee or volunteer from a designated group of employees and volunteers will be tested.
    - iii. The designated groups are comprised of employees and volunteers who work in high-risk and safety sensitive positions, which includes without limitation the following departments/areas: sworn police, fire personnel with fire suppression duties, emergency management and emergency medical personnel (excluding most clerical but including 911 dispatchers), water treatment operations (excluding clerical staff), waste water treatment operations (excluding clerical staff), CDL drivers, and sworn officers of the sheriff's department.
      - a. The CDL Random Drug Testing Program will be regulated by the US Department of Transportation and may differ from the general City of Waynesboro Random Drug Testing program.
    - iv. The City has no discretion to waive the selection of an employee or volunteer selected by this random selection method.
5. Return to Duty
- Any employee who is found to have engaged in any of the prohibited conduct described in this policy and who is subjected to discipline (as described below) for a drug or alcohol related offense or incident may be required to undergo drug and/or alcohol testing prior to being restored to active employment status.

## **Collection and Testing Procedures**

1. Alcohol Testing
  - a. Employees and volunteers subject to alcohol testing will be driven to a City designated facility and directed to provide breath specimens. Breath specimens will be tested by trained technicians using federally approved breath alcohol testing devices. Alcohol tests may, however, be a breath, blood, or saliva test, at the City's discretion. For purposes of this policy, test results generated by law enforcement or medical providers may be used.
2. Drug Testing
  - a. Applicants, employees, and volunteers subject to drug testing go to a City designated medical facility and provide a urine specimen. Applicants, employees, and volunteers may provide specimens in private unless they appear to be submitting altered, adulterated, or substitute specimens. Collected specimens will be sent to a federally certified laboratory and tested for evidence of drugs. The laboratory will screen all specimens and confirm all positive screens. There will be a chain of custody from the time specimens are collected through testing and storage.
  - b. The laboratory will transmit all positive drug test results to a medical review officer (MRO) retained by the City, who will offer persons with positive results a reasonable opportunity to rebut or explain the results. Individuals with positive test results may also ask the MRO to have their split specimen sent to another federally certified laboratory to be tested at the applicant, volunteers, or employee's own expense. Such requests must be made within 72 hours of notice of test results. If the second facility fails to find any evidence of drug use in the split specimen, the employee or applicant will be treated as passing the test. In no event should a positive test result be communicated to the City until such time that the MRO has confirmed the test to be positive.
    - i. Urine samples that are deemed to be an insufficient specimen, have a temperature that is out of range, or are diluted will be considered a positive drug screen.
      1. Urine samples in any of the above categories will not be eligible for split sample testing.
    - ii. A refusal to cooperate or provide a specimen shall be deemed to be a positive drug screen.
  - c. Drug tests will be a urine. For purposes of this policy, test results generated by law enforcement or medical providers may be used.

## **Consequences**

1. Employees and volunteers who refuse to cooperate in required tests or who use, possess, buy, sell, manufacture or dispense an illegal drug in violation of this policy will be subject to discipline up to and including termination. Compliance with this policy, including all forms of testing, is a condition of employment.
3. The first time an employee or volunteer tests positive for alcohol or illegal drug use under this policy, the result will be discipline up to and including termination.
4. Employees will be paid for time spent in alcohol or drug testing and then may be suspended with or without pay pending the results of the drug or alcohol test.
  - a. After the results of the test are received, the employee will be notified of the result.
  - b. Should the results prove to be negative, and the employee was suspended without pay, the employee will receive back pay for the times/days of suspension.

## **Confidentiality**

Information and records relating to positive test results, drug and alcohol dependencies, and legitimate medical explanations provided to the MRO should be kept confidential to the extent required by law and maintained in secure files separate from normal personnel files. Such records and information may be

disclosed among managers and supervisors on a need-to-know basis and may also be disclosed when relevant to a grievance, charge, claim or other legal proceeding initiated by or on behalf of an employee, volunteer or applicant.

### **Inspections**

Employees should have no expectation of privacy relating to City property. The City reserves the right to inspect all portions of its premises for drugs, alcohol, or other contraband. All employees, applicants, volunteers and visitors may be asked to cooperate in inspections of their persons, work areas and property that might conceal a drug, alcohol, or other contraband. Employees and volunteers who possess such contraband or refuse to cooperate in such inspections are subject to discipline up to and including termination.

### **Crimes Involving Drugs**

The City prohibits all employees and volunteers from manufacturing, selling, distributing, dispensing, possessing, or using an illegal drug in or on City premises or while conducting City business. City employees and volunteers are also prohibited from misusing legally prescribed or OTC drugs. Law enforcement personnel will be notified, as appropriate, when criminal activity is suspected.

The City does not desire to intrude into the private lives of its employees and volunteers, but recognizes that employees' and volunteer's off-the-job involvement with drugs and alcohol may have an impact on the workplace. Therefore, the City reserves the right to take appropriate disciplinary action up to and including termination for drug use, sale, or distribution while off City premises. All employees and volunteers who are convicted of, plead guilty to, or are sentenced for a crime involving an illegal drug are required to report the conviction, plea or sentence to HR within five (5) days. Failure to comply will result in automatic termination.

### **Other Requirements and Provisions**

Police Officers will be allowed to possess prohibited substances during work if it is obtained through proper criminal investigation procedures. Alcohol may be consumed by an undercover officer in special situations if approved by a supervisor.

### **Definitions**

1. "City premises" includes all buildings, offices, facilities, grounds, parking lots, lockers, places, and vehicles owned, leased, or managed by the City or on any site on which the City is conducting business.
2. "Illegal drug" means a substance whose use or possession is controlled by federal law but that is not being used or possessed under the supervision of a licensed health care professional. Controlled substances are listed in Federal Regulation Schedules I-V of 21 C.F.R. Part 1308 and Code of Virginia Section 54.1-3456 and Schedules 1 through 6 in Sections 54.1-3445 to 54.1-3455. Illegal drug also includes any inhalant or substance that has mind-altering affects or properties, which includes without limitation the following departments/areas: sworn police, fire personnel with fire suppression duties, emergency management personnel (excluding clerical), water treatment operations (excluding clerical staff), public works, (excluding clerical staff), waste water treatment operations (excluding clerical staff), CDL drivers, and sworn officers of the sheriff's department.
3. "Refuse to cooperate" means to obstruct the collection or testing process; to submit an altered, adulterated, or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or to fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure. Employees who leave the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will also be considered to have refused to cooperate and will automatically be subject to termination.

4. "Safety sensitive positions" means those positions that the City determines there exists a high risk of injury to others with if the employee has even a momentary lapse of attention and those positions that preserve and protect life, property, public health, and/or safety, which includes without limitation the following departments/areas: sworn police, fire personnel with fire suppression duties, emergency management and emergency medical personnel (excluding most clerical but including 911 dispatchers), water treatment operations (excluding clerical staff), public works, (excluding clerical staff), waste water treatment operations (excluding clerical staff), CDL drivers, sworn officers of the sheriff's department.
  1. "Under the influence of alcohol" means an alcohol concentration equal to or greater than .04, or actions, appearance, speech, or bodily odors that reasonably cause a supervisor to conclude that an employee is impaired because of alcohol use.
  2. "Under the influence of drugs" means a confirmed positive test result for illegal drug use per this policy. In addition, it means the misuse of legal drugs (prescription and possibly OTC) when there is not a valid prescription from a physician for the lawful use of a drug in the course of medical treatment (containers must include the patient's name, the name of the substance, quantity/amount to be taken and the period of authorization).

**Interpretation and Administration**

The City Manager and Human resources are responsible for the interpretation and administration of this policy and its various provisions. The City of Waynesboro has the authority to change, modify, or approve exceptions to this policy at any time without notice.

**Revisions and Approvals**

<b>Date</b>	<b>Version</b>	<b>Approver</b>	<b>Change Description</b>
8/19/15	II	Nichole Nicholson	Clarification that the CDL Testing is regulated by US DOT.
9/3/15	III	Nichole Nicholson	Section "e" was added to Post-Accident section. Renamed emergency services communications officers to emergency services personnel (excluding clerical staff).
11/20/15	IV	Nichole Nicholson	Police Department's General Order 1.09 was included as it relates to drug testing for internal and external applicants.
2/16/16	V	Nichole Nicholson	Post-accident drug testing time frame changed to match DOT policy. Mandate of unpaid suspension language changed in the Consequences section- no longer a mandate.
6/25/19	VI	Nichole Nicholson	Section 2 under Collection and Testing Procedures updated.

			Clarifying language added regarding the Drug-Free Workplace Act of 1988, Employee Assistance, Return to Duty, and Reasonable Suspicion Criteria. Other clarification language suggested by legal counsel added throughout the policy.
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