



City of Healdsburg Alcohol and Drugs in the Workplace Policy

Effective Date: March 1, 2023

Approved: _____
Jeff Kay, City Manager

I. PURPOSE:

A. The City of Healdsburg (“City”), its employees and their representatives, and prospective employees have a vital interest in maintaining safe, healthful, and efficient working conditions. Being under the influence of a drug or alcohol on the job may pose serious safety and health risks to the user, co-workers, and the public. The unauthorized possession or use of alcohol while on duty, or the possession, use, or sale, or other exchange of an illegal drug poses unacceptable risks for safe, healthful, and efficient operations, and is strictly prohibited. The purpose of this policy is to set forth explicit written rules regarding alcohol and drugs as they relate to the workplace and job performance. This policy does not apply to separate or concurrent police action.

B. In the spirit of creating a drug and alcohol-free work environment, nothing in the policy shall be construed to restrict the City’s ability to use common sense, prudence, technology, or external resources to protect the safety of its employees, its customers, or the public, unless otherwise prohibited by law.

C. The City encourages employees who believe that they may have a drug or alcohol problem to voluntarily seek counseling, assistance, and/or rehabilitation, and will be supportive of those employees who voluntarily seek help before the City discovers that the employee has a drug or alcohol problem. However, the City will be equally firm in identifying and disciplining those employees who are substance abusers and do not seek help.

Nothing in this policy is intended to diminish the City’s commitment to employ qualified disabled individuals or to provide reasonable accommodation to such individuals consistent with all federal, state, and local laws.

II. APPLICATION:

A. **Employees:** This policy applies to all employees, including part-time or temporary, or applicants for positions with the City, unless otherwise expressly indicated in this policy

B. Certain employees may be subject to the Omnibus Transportation Employee Testing Act of 1991 (Pub. L. No. 102-143, 105 Stat. 952, as amended) which

requires alcohol and drug-testing of safety-sensitive transportation employees who are required to have a commercial driver's license (49 CFR Parts 40, 382, 391, 392, and 395, as amended). To comply with Department of Transportation regulations, the City has developed specific guidelines regarding when and how drug and alcohol testing will occur, as well as provisions on rehabilitative services available to all covered employees. The specific guidelines for covered employees who are required to have a commercial driver's license are set forth in a separate commercial driver policy. Covered employees who are required to have a commercial driver's license are covered by this policy except where this policy conflicts with the commercial driver policy or with the Omnibus Transportation Employee Testing Act of 1991, as amended, the Federal Highway Administration Regulations, as amended, Federal Motor Carrier Safety Administration, as amended, or any other applicable Department of Transportation Agency regulations governing drug testing of employees required to possess a commercial driver's license, in which case the commercial driver policy or transportation-specific legal requirement will control.

III. **DEFINITIONS:**

- B. Alcohol:** This policy applies to the use of alcoholic beverages or substances, including any medication or food containing alcohol such that it is present in the body at a level in excess of that stated in the guidelines by the Department of Transportation ("DOT"), as amended, and currently set at a breath-alcohol concentration of .02 or as otherwise noted in this Policy. Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- C. Drugs or Controlled Substances:** This policy applies to any substance that, in the opinion of competent medical professionals, causes or may cause significant impairment of job performance or which causes or may cause behavior that is a threat to the safety of the affected employee or others. All substances listed in any federal, state, or local controlled substance acts or regulations, including, but not limited to, marijuana, amphetamines, opiates, phencyclidine (PCP) and cocaine, and those substances listed in Schedules I through V of Section 202 of the federal Controlled Substances Act, are covered by this policy.
- D. Under the Influence:** The use or misuse of any of the following in a manner and to a degree that impairs the employee's work performance or ability to use City property or equipment safely:
1. Any alcoholic beverage
 2. Any illegal drug or substance; or
 3. Any legal drug.

E. Impaired: Diminished capacity, ability, mental acuity, or performance.

F. Safety-Sensitive Employees: Safety-sensitive employees are employees who hold safety-sensitive positions. Safety-sensitive positions are those requiring the performance of duties that present risks to self and others so that even a momentary lapse of attention can have disastrous consequences, including, but not limited to the following:

1. Positions that include interaction with children, where employees are directly responsible for protecting children, or where employees have continuous interaction or supervision that puts them in a position of influence over children.
2. Positions that have a history of drug or alcohol use include those where the Agency has established the existence of documented problems with drug or alcohol use by employees in a particular position or particular department.

Positions that are subject to the Omnibus Transportation Employee Testing Act of 1991 are also classified as “safety-sensitive” as that term is defined by the Department of Transportation regulations and federal law. Testing for these employees is addressed in a separate policy.

IV. PROHIBITED CONDUCT:

All employees are prohibited from:

1. Possession and/or use of any unauthorized alcohol or drug on any city premise, at the employee’s job site, or in any city vehicle, or assist others in such prohibited acts;
2. Reporting to work or performing any job duties, including driving a city vehicle, while their ability to perform job duties is impaired due to alcohol or drug use;
2. Possessing, manufacturing, or using impairing drugs, including illegal drugs and prescription drugs without a prescription, during working hours, on breaks, during meal periods or at anytime while on City property;
3. Possessing, manufacturing, or using alcohol, during working hours, on breaks, during meal periods, or at anytime while on City property, except as otherwise specifically permitted by the City Manager or designee;
4. Directly or through a third party selling, manufacturing, or providing drugs or alcohol to any person, including any employee, while either or both employees are on duty, or on City property;
5. Failing to notify their supervisor, 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;

6. Failure to provide, within 24 hours of request, bona fide verification of a current or valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive. The prescription must be in the employee's name;

7. Refusing to immediately submit to any aspect of an alcohol, drug, or controlled substance test required by this policy, or tampering, obstruction of or interference with testing procedures;

8. Consuming alcohol, drugs, or controlled substances during the eight hours immediately following an accident in which the employee was involved, or until the employee undergoes a post-accident alcohol or drug test, whichever comes first;

9. Refusing to submit to a search of personal properties when directed by the City, upon reasonable suspicion and in accordance with Section 3309 of the Public Safety Officers Procedural Bill of Rights, where applicable.

V. EXCEPTIONS AND EXCLUSIONS:

The City Manager may make exceptions to this policy to accommodate the serving of alcoholic beverages at certain organized social events.

Substances prescribed as medicine by a licensed physician or health care provider are excluded, provided such use does not impair ability to perform job duties or constitute a safety hazard to the employee or others, as determined by the employee's supervisor, or a hazard to property.

VI. ALCOHOL AND DRUG TESTING:

In carrying out and enforcing this policy, the City may require the following types of testing:

- A. Pre-Employment Testing:** Following an offer of employment the City shall require applicants to Police, Fire and/or Safety-Sensitive positions or existing employees who are transferring for the first time to a Safety-Sensitive position, to submit to a test for alcohol and illegal drug use as a condition of employment. Any applicant who refuses to provide consent for this test, or who receives a verified positive result may be disqualified from City employment.
- B. Reasonable Suspicion:** Reasonable suspicion means a belief based upon objective facts, evidence, or other indicators sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is

impaired or reduced. For example, any of the following alone or in combination may constitute reasonable suspicion:

1. Slurred speech;
2. Physical symptoms of impairment (e.g. glassy, bloodshot eyes, eye dilation, shaking, or erratic movement);
3. Odor of alcohol and/or cannabis;
4. Unsteady walking and movement;
5. An accident involving City property, employee or client that provides a reasonable basis to believe that the accident was likely to have been caused by impairment from drugs or alcohol;
6. Physical or verbal altercation;
7. Unusual behavior
8. Possession of alcohol, drugs, controlled substances, or prohibited drug paraphernalia;
9. Job impairment;
10. Information obtained from a reliable source with personal knowledge; or
11. Cannabis odor on breath/person

- C. Testing and Search:** If a Department Head or supervisor has reasonable suspicion, as provided under this policy, that an employee is under the influence of alcohol, drugs, or controlled substances while performing job duties or operating City equipment, the Personnel Director must be notified immediately. Upon approval by the City Manager or designee, the employee may be required to submit to an alcohol and/or drug test. An employee's refusal to submit to such a test is cause for discipline, up to and including termination. City also may require an employee to submit to an alcohol and/or drug test when the employee is subject to return to duty and/or follow-up testing following an employee's return from drug and/or alcohol rehabilitation and/or treatment.

Moreover, the City reserves the authority to search, without employee consent, subject to Section 3309 of the Public Safety Officers Procedural Bill of Rights where applicable, all areas of City property which the City maintains control or joint control with the employee.

- C. Post-Accident Testing.** Unless the City determines that the employee's performance was not a contributing factor, any employee involved in a

reportable accident may be subject to an alcohol test within two hours following the accident and to a drug test within thirty-two (32) hours following the accident. Not only may the operator of any involved vehicle be tested, but so may any other employees whose performance may have contributed to the accident, such as the employee who maintains the vehicle or work-site where the accident occurred.

Any accident is considered reportable if it occurs while in a City vehicle, on City property, or when performing any City-related business and involves any of the following:

1. A fatality;
2. A shooting or other serious incident;
3. The issuance of a citation by law enforcement to the employee for a moving traffic violation arising from the accident and a) bodily injury demanding immediate medical treatment away from the scene of the accident or b) vehicular damage so that the vehicle must be towed away from the scene of the accident, even after simple repairs on the scene,

VII. PROCEDURES:

A. Supervisors: Each supervisor is responsible for the consistent enforcement of this policy.

1. When a supervisor has reasonable suspicion that there is alcohol on city premises, except as otherwise permitted under this policy, the supervisor shall take all reasonable steps to locate the alcohol, confiscate it, and determine who is responsible for its presence. Searches may be made of all city property, including desks and desk drawers. Law Enforcement employee searches will be in compliance with the Police Officer's Bill of Rights (POBAR).

2. When a supervisor has reasonable suspicion that Controlled Substances are on city premises, except as otherwise authorized for an individual's use as prescribed by a health care provider, the supervisor shall immediately report the matter to the Healdsburg Police for further action as a police matter.

3. When a supervisor has a reasonable suspicion that an employee is under the influence of drugs or alcohol, they will remove the employee from the work site. The supervisor will notify the Department Head and Personnel Director. The supervisor shall document in writing the facts constituting reasonable suspicion that the employee in question is under the influence of drugs or alcohol.

- B. Testing Administrators:** The drug or alcohol testing of applicants or employees shall be performed only by a laboratory and by a physician or health care professional qualified and authorized to administer and determine the meaning of any test results under Department of Transportation guidelines.
- C. Testing Procedures:** The procedures regarding alcohol and drug testing, including analytical urine-controlled substance testing and breath testing for alcohol, will be as set forth under Department of Transportation guidelines, specifically 49 CFR Part 40.1, et. seq.
- C. Non-Safety-Sensitive Employees:** For non-safety-sensitive employees, the City Manager, in their discretion, may authorize internal or other testing administrators and procedures, in lieu of or in addition to those provided under the Department of Transportation guidelines.

VIII. CONSEQUENCES OF FAILING AN ALCOHOL AND/OR DRUG TEST:

Any employee found to be in violation of this policy is subject to discipline, up to and including termination of employment. Employees who are removed from their position under this policy while awaiting test results or while under investigation shall be placed on paid administrative leave. The City, in its discretion, may discipline, up to and including termination, an employee who violates this policy one or more times.

An employee in a Safety-Sensitive position shall also be evaluated by a Substance Abuse Professional (SAP) in accordance with the Drug and Alcohol Testing of Safety Sensitive Positions policy. A SAP is a licensed physical psychologist, social worker, employee assistance professional, or addiction counselor with clinical experience in the diagnosis and treatment of alcohol and substance abuse related disorders.

The City recognizes that the abuse of alcohol and/or drugs is a progressive illness which can be arrested if treated in a sensitive and timely manner; therefore, any disciplinary action shall consider the appropriateness of and commitment to treatment programs pursued by the employee, the employee's work record, and the problems created by the employee's absence for treatment. While undergoing treatment for an alcohol and/or drug abuse related problems, the employee shall authorize the Personnel Director sufficient access to records, and treatment providers, to adequately monitor progress of treatment and determine capacity to carry on their job duties. Failure of an employee who has committed themselves to a treatment program, and rigidly adhere to the program, will result in disciplinary action, up to and including termination.

IX. CRIMINAL CONVICTIONS:

Employees must notify the City of any conviction under a criminal drug statute for a violation occurring in the workplace, while conducting or performing City business regardless of location, or during any City-related activity or event, in writing, no later than 5 days after any such conviction. For purposes of this policy, a conviction includes a finding of guilt, a plea of *nolo contendere* or no contest, and/or an imposition of sentence by any judicial body charged with responsibility to determine violations of federal or state criminal drug and alcohol

statutes. When required by applicable law, the City will notify agencies under contract of any employee who has been convicted under a criminal drug statute for a violation occurring while conducting or performing City business, regardless of location.

X. CONFIDENTIALITY:

The City is obligated to maintain records of the administration, including violations, of this Policy for a period of five years. However, laboratory reports and test results shall not appear in an employee's general personnel file. Information of this nature shall be contained in a separate confidential medical file that shall be securely kept under the control of the Personnel Director.

The reports or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request. In addition, managers and supervisors must not disclose the fact of an employee's participation in any drug or alcohol counseling or rehabilitation program. Disclosures, without patient consent, may also occur when the information:

1. Is compelled by law or by judicial or administrative process;
2. Has been placed at issue in a formal dispute between the employer and employee;
3. Is to be used in administering an employee benefit plan;
4. Is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

XI. VOLUNTARY ASSISTANCE OR REHABILITATION:

A. In General. The City encourages Employees who suspect they may have alcohol or drug problems to seek voluntary assistance and rehabilitation at an early date. Accordingly, an eligible employee who decides to seek treatment or rehabilitation will not be subject to discipline solely because of seeking such treatment. However, the City reserves the right to discipline employees, up to and including termination, who are found to have engaged in activity prohibited by this Policy.

B. Employee Assistance. The Employee Assistance Program (EAP) is available to assist employees in these efforts to overcome problems with drugs and/or alcohol. Information pertaining to such programs may be obtained by direct contact with the EAP agency or by contacting Human Resources.

C. Leave of Absence for Voluntary Receipt of Assistance and Rehabilitation. Employees who wish to voluntarily enter and participate in an approved alcohol or drug rehabilitation program are encouraged to contact the Personnel Director or Executive, who will determine whether the City can accommodate the employee by providing unpaid leave to complete the program.

The City reserves the right to deny such leave in accordance with applicable state or federal law if granting the leave would impose an undue hardship on the City.