

CITY OF TEXAS CITY



Drug & Alcohol Abuse Policy

DRUG AND ALCOHOL ABUSE POLICY

Section 2-61. Definitions.

As used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning.

Alcohol shall mean any beverage that contains ethyl alcohol (ethanol) including, but not limited to beer, wine, and distilled spirits.

City premises or city facilities shall mean when an employee is on duty, all property of the city including, but not limited to, the offices, facilities and surrounding areas on city-owned or leased property, parking lots and storage areas. The term also includes city-owned or leased vehicles and equipment wherever located.

Drug testing shall mean the scientific analysis of urine, blood, breath, saliva, hair, tissue and other specimens of the human body for the purpose of detecting drug or alcohol.

Illegal drug shall mean any drug which is not legally obtainable; any drug which is legally obtainable but has not been legally obtained; any prescribed drug not legally obtained; any prescribed drug not being used for the prescribed purpose; and any drug being used for a purpose not in accordance with bona fide medical therapy. Examples of illegal drugs are cannabis substances, such as marijuana and hashish; cocaine, heroin, phencyclidine (PCP), and so-called designer drugs and look-alike drugs.

Legal drug shall mean any prescribed drug which has been legally obtained and is being used for the purpose for which prescribed or manufactured.

Reasonable belief shall mean a belief based on objective facts sufficient to lead a prudent person to conclude that a particular employee is unable to satisfactorily perform his or her job duties due to drug or alcohol impairment. Such inability to perform may include, but is not limited to, decreases in the quality or quantity or the employee's productivity, judgement, reasoning, concentration and psychomotor control, and marked changes in behavior. Accidents, deviations from safe working practices, and erratic conduct indicative of impairment are examples of "reasonable belief" situations.

Safety sensitive positions shall mean a position having any duty, the performance of which could cause injury to the incumbent or others or could cause serious damage to property.

Under the influence shall mean a condition in which a person is affected by a drug or alcohol in any detectable manner. The symptoms of influence are not confined to those consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of being under the influence can be established by a professional opinion, a scientifically valid test, and in some cases by the opinion of a lay person.

Section 2-62. Policy.

a)The city of Texas City has a vital interest in maintaining a safe, healthful and efficient working environment. Being under the influence of a drug or alcohol on the job poses serious safety and health risks to the user and to all those who work with the user. The use, sale, purchase, transfer or possession of an illegal drug in the workplace and the use, possession, or being under the influence of alcohol also poses unacceptable risks for safe, healthful and efficient operations.

b)The city believes it has the right and obligation to maintain a safe, healthful and efficient workplace for all its employees and to protect the city's property, information, equipment, operations and reputation.

c)The city recognizes its obligations to its citizens for the provision of services that are free of the influence of illegal drugs and alcohol and will endeavor through this policy to provide drug-and- alcohol-free services.

d)The city further expresses its intent through this policy to comply with federal and state rules, regulations or laws that relate to the maintenance of a workplace free from illegal drugs and alcohol.

Section 2-63. Purpose.

This policy outlines the goals and objectives of the city's drug and alcohol testing program and provides guidance to supervisors and employees concerning their responsibilities for carrying out the program.

Section 2-64. Scope.

This policy applies to all department, all employees and all job applicants, except that sworn employees of the police and fire departments may be governed by more restrictive policies which may be required by departmental rules and regulations.

Section 2-65. Education.

a)Supervisors and other management personnel are to be trained in:

- 1) Detecting the signs and behavior of employees who may be using drugs or alcohol in violation of this policy.

- 2) Intervening in situations that may involve violations of this policy.
- 3) Recognizing the above activities as a direct job responsibility.

b) Employees are to be informed of:

- 1) The health and safety dangers associated with drug and alcohol use.
- 2) The provisions of this policy.

Section 2-66. Prohibited Activities.

a) Legal drugs.

- 1) The undisclosed use of any legal drug by any employee while performing city business or while on city premises is prohibited. However, an employee may continue to work, even though using a legal drug, if city management has determined, after consulting with the employee's physician, that such use does not pose a threat to safety and that the using employee's job performance will not be significantly affected. Otherwise, the employee may be required to take leave of absence or comply with other appropriate action as determined by city management.
- 2) An employee whose medical therapy requires the use of a legal drug must report such use to his or her supervisor prior to the performance of city business. The supervisor who is so informed will contact the employee's physician for guidance, if necessary.
- 3) The city at all times reserves the right to judge the effect that a legal drug may have upon work performance and to restrict the using employee's work activity or presence at the workplace accordingly.

b) Illegal drugs and alcohol, the use, sale, purchase, transfer or possession of an illegal drug or alcohol by any employee while on city premises or while performing city business is prohibited.

Section 2-67. Discipline.

a) Any employee who possesses, distributes, sells, attempts to sell or transfers illegal drugs on city premises or while on city business will be discharged.

b) Any employee who is found to be in possession of or under the influence of alcohol in violation of this policy will be subject to discipline up to and including discharge.

c) Any employee who is found, through drug or alcohol testing, to have in his or her body system a detectable amount of an illegal drug(s) or alcohol will be subject to discipline up to and including discharge, except that, depending on the circumstances of the case, the employee may be offered a one-time opportunity to enter and successfully complete a rehabilitation program that has been approved by the city. Upon return to work from rehabilitation, the employee will be subject to unannounced drug or alcohol testing for a period of thirty (30) months. Any test that is confirmed as positive during or following rehabilitation will result in discharge.

Section 2-68. Drug and Alcohol Testing of Job Applicants.

a) All applicants for employment, including applicants for part-time and seasonal positions and applicants who are former employees, are subject to drug and alcohol testing.

b) An applicant must pass the drug test to be considered for employment.

c) An applicant will be notified of the city's drug and alcohol testing policy prior to being tested; will be informed in writing of his or her right to refuse to undergo such testing; and will be informed that the consequences of refusal is termination of the pre-employment process.

d) An applicant will be provided written notice of this policy and by signature will be required to acknowledge receipt and understanding of the policy.

e) If an applicant refuses to take a drug or alcohol test, or if evidence of the use of illegal drugs or alcohol by an applicant is discovered, either through testing or other means, the pre-employment process will be terminated.

Section 2-69. Drug and Alcohol Testing of Employees.

a) The city will notify employees of this policy by:

1) Providing to each employee a copy of this policy and obtaining a written acknowledgement from each employee that the policy has been received and read.

2) Announcing the policy in various written communications and making presentations at employee meetings.

b) The city may perform drug and alcohol testing:

1) Of any employee who manifests "reasonable belief" behavior.

2) Any employee who has been involved in an accident involving a city vehicle or equipment should be reported immediately to the employee's

immediate supervisor of department head and the Personnel Department. Incident forms must be completed by the employee as soon as possible, but in no event to exceed a 72-hour period. The employee shall submit to drug and alcohol testing immediately after the incident.

3) On a random basis of employee who performs duties in a safety sensitive position.

4) Of an employee who is subject to drug and alcohol testing pursuant to federal or state rules, regulations or laws **including but not limited to the Department of Transportation Federal Transit Administration Anti-Drug Plan as it relates to the city's passenger van drivers.**

c)The city will conduct random drug and alcohol testing of a designated percentage of the workplace at a frequency of once per month. Random selection will be performed through an unbiased off-site computer-generated process.

d)Any employee's consent to submit to drug or alcohol testing is required as a condition of employment , and the employee's refusal to consent may result in disciplinary action, including discharge, for a first refusal or any subsequent refusal.

e)An employee who is tested in a "reasonable belief" situation may be suspended pending receipt of written test results and whatever inquires may be required.

Section 2-70. Appeal of a Drug or Alcohol Test Result.

a)An applicant or employee whose drug or alcohol test is reported positive will be offered the opportunity of a meeting to offer an explanation. The purpose of the meeting will be to determine if there is any reason that a positive finding could have resulted from some cause other than drug or alcohol use. The city, through its health and/or human resources officials, will judge whether an offered explanation merits further inquiry.

b)An employee whose drug or alcohol test is reported positive will be offered the opportunity to:

1) Obtain and independently test, at the employee's expense, the remaining portion of the urine specimen that yielded the positive result.

2) Obtain the written test result and present it to an independent medical review at the employee's expense.

c)The employee may use the city's medical benefits, to the extent that coverage may apply, for meeting the costs described in subsection (b) above.

d)During the period of appeal and any resulting inquiries, the pre-employment selection process for an applicant will be placed on hold, and the employment status of an employee may be suspended. An employee who is suspended pending appeal will be permitted to use any available annual leave in order to remain in an active pay status. If the employee has no annual leave or chooses not to use it, the suspension will be without pay.

Section 2-71. Rehabilitation and Employee Assistance

a)Rehabilitation assistance in lieu of discharge may be offered.

1) To any employee who has requested rehabilitation assistance, provided that the request is unrelated to an identification of the employee as a violator of this policy.

2) To any employee who has violated this policy, provided that the violation does not involve selling or transferring illegal drugs or serious misconduct.

b)An employee who is in rehabilitation will be suspended, except that, when indicated by the circumstances of the case and the written recommendation of a licensed physician or recognized rehabilitation professional, an employee may be permitted to work while undergoing rehabilitation on an outside-of-work basis. The written recommendation must include a statement to the effect that the employee, co-workers or others. An employee who is suspended while undergoing rehabilitation and who is not permitted to work will be permitted to use any available leave in order to remain in an active pay status. If the employee has no annual leave or chooses not to use it, the suspension will be without pay.

c)An employee whose rehabilitation therapy involves drug maintenance, hospitalization or detoxification will not be considered for the exception from suspension described in subsection (b) above. An employee who is suspended under this section will be permitted to use any available leave in order to remain in an active pay status. If the employee has no annual leave or chooses not to use it, the suspension will be without pay.

d)An employee who is in rehabilitation or who has completed rehabilitation will be allowed to return to work upon presentation of a written release signed by a licensed physician or recognized rehabilitation professional. The release must include a statement to the effect that the employee's presence in the workplace will not constitute a safety hazard to the employee, co-worker or others.

e) Rehabilitation assistance given by the city will be:

- 1) Limited to those medical benefits that may be available in the employees medical benefits plan.
- 2) Obtained through a rehabilitation program that has been approved by the city.
- 3) Obtained by the employee during times that will not conflict with the employee's work time, except that the employee may use any available sick leave or annual leave to be absent from the job with pay.

f) The city will provide to any employee, upon request and at no cost to the employee, information concerning local resources that are available for the treatment of drug and alcohol related problems.

Section 2-71. Amnesty

a) Random drug testing will not be conducted during a period of thirty (30) days immediately following the effective date of this policy. The purpose of an amnesty is to allow employees who are using drugs or alcohol to discontinue use without fear of detection by unannounced testing.

b) Amnesty will not apply to drug or alcohol testing of job applicants or to employees involved in "reasonable belief" situations.

Section 2-71. Inspections and Searches

a) The city may conduct unannounced general inspections and searches for drugs or alcohol on city premises or in city vehicles or equipment wherever located. Employees are expected to cooperate.

b) An employee's consent to a search is required as a condition of employment, and the employee's refusal to consent may result in disciplinary action, including discharge, even for a first refusal.

c) Illegal drugs, drugs believed to be illegal and drug paraphernalia found on city property will be turned over to the appropriate law enforcement agency and full cooperation given to any subsequent investigation. A substance which cannot be identified as an illegal drug by a layman's examination will be turned over to a forensic laboratory for scientific analysis.

d) If an employee is the subject of a drug-related investigation by the city or by a law enforcement agency, the employee may be suspended pending completion of the investigation.

Section 2-74. Confidentiality

All information relating to drug or alcohol testing or the identification of persons as users of drugs and alcohol will be protected by the city as confidential unless otherwise required by law, overriding public health and safety concerns, or authorized in writing by the person in question.