

ALCOHOL FREE & DRUG FREE WORKPLACE—

In compliance with the Drug-Free Workplace Act of 1988, (41 USC §§ 701-707), the City is committed to providing an alcohol-free and drug-free workplace. The City prohibits the unlawful manufacture, distribution, sale, possession or use of a controlled substance or alcohol in the workplace or while conducting business. All employees must comply with this policy and notify the MAYOR and/or their designee in writing of any drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

The MAYOR is responsible for notifying the appropriate federal granting agency of the conviction when the employee involved is working on a federal grant or contract, within ten (10) days of learning of the conviction. Employees who violate this policy may be subject to disciplinary action up to and including termination.

The City currently has access to an Employee Assistance Program for employees. The program offers confidential assistance to employees or their family members who are experiencing personal problems including drug and alcohol problems.

The City reserves the right to require an employee to submit to testing, either prior to employment as a condition of employment, or based on, but not limited to, observations by a supervisor or other City official of apparent workplace use, possession or impairment. Upon establishing this policy, the City reserves the right to require all current employees to submit to testing as a condition of employment. The Mayor or their designee should be consulted before sending an employee for testing based upon reasonable suspicion. An Observation Checklist must be used to document specific observations and behaviors which create a reasonable suspicion the person is under the influence of illegal drugs or alcohol. If the results of the Observation Checklist indicate further action is justified, the Mayor should confront the employee with the documentation and with a union representative present (for all unionized employees) or with another member of management (for all nonunionized employees). *Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of supervision/management and a union rep (if appropriate) must escort the employee; the supervisor/manager will make arrangements for the employee to be transported home.*

Post Accident Protocol: Employees operating a City vehicle or other equipment involved in an injury to the employee or others, or an accident involving damage to property, shall immediately contact law enforcement for purposes of filing an accident report. If, during the course of the investigation law enforcement has reasonable suspicion to believe alcohol or drug use may have contributed to the accident, the employee shall submit to a blood test within two hours of the incident in accordance with the protocols established by law enforcement under Title 61, Chapter 8, Part 4 of the Montana Code, and related provisions. *Under no circumstances will the employee be allowed to drive himself or herself to the testing facility.*

Follow-up: Employees who have tested positive, or otherwise violated this policy, are subject to discipline, up to and including discharge. Depending on the circumstances and the employee's work history/record, the City may offer an employee who violates this policy or tests positive the opportunity to return to work on a last-chance basis pursuant to mutually agreeable terms, which could include follow-up drug testing at times and frequencies determined by the City for a minimum of one year but not more than two years as well as a waiver of the right to contest any termination resulting from a subsequent positive test. If the employee either does not complete the rehabilitation program or tests positive after completing the rehabilitation program, the employee will be subject to immediate discharge from employment.

Collection and Testing Procedures

Employees subject to alcohol testing should be driven to a City-designated facility and directed to provide breath specimens. Breath specimens should be tested by trained technicians using federally approved breath alcohol testing devices capable of producing printed results that identify the employee. If an employee's breath alcohol concentration is .04 or more, a second breath specimen should be tested approximately 20 minutes later. The results of the second test are to be considered determinative. 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 considered by the City as work rule violations.

Applicants and employees subject to drug testing should be driven to a City-designated medical facility and directed to provide blood or urine specimens. Applicants and employees may provide specimens in private unless they appear to be submitting altered, adulterated or substitute specimens. Collected specimens should be sent to a federally certified laboratory and tested for evidence of marijuana, cocaine, opiates, amphetamines, PCP, benzodiazepines, methadone, methaqualone and propoxyphane use. (Where indicated, specimens may be tested for other illegal drugs.) The laboratory should screen all specimens and confirm all positive screens. There must be a chain of custody from the time specimens are collected through testing and storage.

The laboratory should transmit all positive drug test results to a medical review officer (MRO) retained by the City, who should 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's 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 City until such time that the MRO has confirmed the test to be positive.

Consequences

Applicants who refuse to cooperate in a drug test or who test positive will not be hired and will not be allowed to reapply/retest in the future.

Employees who refuse to cooperate in required tests will be terminated. Employees who use, possess, buy, sell, manufacture or dispense an illegal drug in violation of this policy, particularly if the use, possession, sale, etc. occurs during working hours or on City property, will be terminated. *If the employee refuses to be tested, yet the City believes he or she is impaired, under no circumstances will the employee be allowed to drive himself or herself home.*

The first time an employee tests positive for alcohol or illegal drug use under this policy, the result will be discipline up to and including discharge.

Employees will be paid for time spent in alcohol or drug testing and then suspended pending the results of the drug or alcohol test. After the results of the test are received, a date and time will be scheduled to discuss the results of the test; this meeting will include a member of management/supervision, a union representative (if requested), and the Mayor or their designee. Should the results prove to be negative, 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 or applicant.

Inspections

The City of White Sulphur Springs reserves the right to inspect all portions of its premises for drugs, alcohol or other contraband; affected employees may have union representation involved in this process. All employees, contract employees 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 who possess such contraband or refuse to cooperate in such inspections are subject to appropriate discipline, up to and including discharge.

Crimes Involving Drugs

The City prohibits all employees, including employees performing work under government contracts, from manufacturing, distributing, dispensing, possessing or using an illegal drug in or on company premises or while conducting company business. City employees are also prohibited from misusing legally prescribed or over-the-counter (OTC) drugs. Law enforcement personnel should be notified, as appropriate, when criminal activity is suspected.

The City does not desire to intrude into the private lives of its employees, but recognizes that employees' 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 for drug use, sale or distribution while off City premises. All employees 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 The Mayor or their designee within five days. Failure to comply will result in

automatic discharge. Cooperation in complying may result in suspension without pay to allow management to review the nature of the charges and the employee's past record with the City.

Definitions

"Company premises" includes all buildings, offices, facilities, grounds, parking lots, lockers, places and vehicles owned, leased or managed by [Company Name] or on any site on which the company is conducting business.

"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 Schedules I-V of 21 C.F.R. Part 1308.)

"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 discharge.

"Under the influence of alcohol" means an alcohol concentration equal to or greater than .04, or actions, appearance, speech or bodily odors which reasonably cause a supervisor to conclude an employee is impaired because of alcohol use.

"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), and/or there is evidence of misuse of the legal prescription or OTC medication.

Reasonable Suspicion and Post-Accident Testing Protocol

1. The employee will be advised the City believes there is reasonable suspicion to believe he or she is affected by illegal drugs or alcohol (or due to the nature of the accident the policy mandates this) and this test is being offered to confirm or deny this suspicion.
2. The employee will be transported to any one of the company's contracted testing facilities (e.g., health services, urgent care or the emergency department). One member of management or a designated attendant will accompany the employee along with a union representative, if requested by the employee. *Under no circumstances will the employee be allowed to drive himself or herself to the testing facility.*
3. Prior to leaving for the testing facility, supervision/management will contact the testing facility to inform it that a City employee will be arriving and will need a drug or alcohol test completed.
4. The employee should be provided water to drink prior to leaving City premises.

5. The employee should be given reasonable time—not to exceed 15 minutes—to secure photo ID in the company of a City representative.
6. The employee to be tested must present a photo ID (i.e., a driver's license or state ID card) to the testing facility staff before the specimen can be obtained. Ensure that the employee brings the photo ID with him or her when leaving [Company Name] premises.
7. The employee to be tested must sign a consent form provided by the testing facility. Refusal to sign is addressed under the "Consequences" section of this document.
8. A City representative must sign as a witness to the collection procedure, along with the tested employee.
9. After returning to the company or when leaving the testing facility, the supervisor/manager must make arrangements to transport the person home (unless testing results are immediate). Under no circumstances will the tested employee be allowed to drive himself or herself home.

Enforcement

The HR department is responsible for policy interpretation, administration and enforcement.

Drug and Alcohol Policy Certificate of Receipt

I hereby certify that I have received a copy of this latest version of the City of White Sulphur Springs Drug and Alcohol Policy, dated _____.

Signature,

Date