

CITY OF COLUSA

ALCOHOL AND DRUG ABUSE POLICY

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I. Purpose

It is the intention of this policy to eliminate substance abuse and its effects in the workplace and to comply with the Federal Drug-Free Workplace Act of 1988 and the California Drug-Free Workplace Act of 1990 which require all agencies receiving grants from any federal or state agency to maintain and promote a drug-free workplace. While the City of Colusa has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol can take its toll on job performance and employee health and safety. The City's concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public as well as themselves. The presence of drugs and alcohol in the workplace, and the influence of these substances on employees in the workplace, are inconsistent with this objective.

One of the goals of the City's drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the City's Employee Assistance Program. While the City will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of City managers, supervisors and employees. To that end the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription and over the counter drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of the particular job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the City's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

In recognition of the public service responsibilities entrusted to the employees of the City of Colusa, and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of Colusa.

II. Policy

It is City policy that employees: (i) shall not be under the influence of alcohol or drugs while on duty; (ii) shall not possess alcohol or illegal drugs while on City property, at work locations or in uniform; (iii) nor manufacture, sell or provide drugs (illegally) or alcohol to any other employee or to any person in the workplace; (iv) nor have their ability to work impaired as a result of the use of alcohol or drugs when reporting for, or at, work.

While use of over the counter or medically and legally prescribed medications and drugs is not per se a violation of this policy, failure by the employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties or operation of City equipment can result in discipline, up to and including termination.

In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified medical provider may be required. Employees utilizing prescribed medications are responsible for consulting the prescribing physician and/or pharmacist to be certain whether or not a medication may interfere with the safe performance of his/her job. It is the employee's responsibility to remove themselves from service if they are unfit for duty.

The City reserves the right to search, without employee consent, all areas and property in which the City maintains control or joint control with the employee. Examples include but are not limited to employee lockers or assigned City Vehicles. Employee's personal vehicles shall not be subject to search without employee consent. The City may notify the appropriate law enforcement agency that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the City.¹

Refusal to submit immediately to an alcohol and/or drug analysis when requested by City management or law enforcement personnel as a result of reasonable suspicion as defined in this policy, may constitute insubordination and be grounds for discipline up to and including termination.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be required to remain on the premises for a reasonable period of time until he or she can be safely transported from the work site.

The City has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisors or an EAP counselor for additional information. This program is not available to applicants, probationary, temporary or seasonal employees, volunteers, interns or contractors and subcontractors performing work for the City.

III. Application

This policy, as it relates to providing a drug and alcohol free workplace, applies to all employees of the City (regular, probationary, temporary and seasonal), all applicants for positions with the City, all volunteers, interns, contractors and subcontractors performing work for the City. Testing protocols outlined in this policy apply to all employees of the City (regular, probationary, temporary and seasonal) and all applicants for positions with the City.

¹ *The City reserves the right in accordance with the Peace officers Bill of Rights and federal and state law to search all areas and property which the City maintains control or joint control with the employee.*

This policy applies to alcohol and to all substances (legal or illegal), which could impair a person's ability to effectively and safely perform the functions of the job.

IV. Definitions

Adulterated Specimen - A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol or other low-molecular-weight alcohols, including methyl or isopropyl alcohol.

Alcohol Concentration - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

Alcohol Use - The consumption of any beverage, liquid mixture or preparation, including any medication or food, containing alcohol.

Designated Employer Representative (DER) - An individual identified by the employer as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The City Manager or designee shall serve as the DER for the City of Colusa.

Illegal Drugs - All drugs, substances and medications deemed illegal under federal or state law.

Impairing Drugs - All illegal drugs, substances and medications and all legal drugs, substances, and medications which could impair a person's ability to effectively and safely perform the functions of the job.

Last Chance Agreement - An agreement between the City and an employee in which the employee agrees to specific conditions including, but not limited to, rehabilitation, random testing and to remain free from drugs and/or alcohol as a condition of continued employment.

Medical Review Officer (MRO) - A licensed physician (M.D. or D.O.) responsible for receiving laboratory results generated by an employer's controlled substances testing program, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test results together with his or her medical history and any other relevant biomedical information.

Negative Test - A test result which is reported to the City and indicates that there are

insufficient or no controlled substances and/or alcohol present in a sample in an amount sufficient to generate a positive result.

Positive Test - A confirmed test result which is at or above the positive test threshold for controlled substances pursuant to the Department of Health and Human Services (DHHS) guidelines or above .02% blood alcohol equivalent for alcohol.

Prescription – A physician’s order valid under federal law for the preparation and administration of a drug or device for a patient.

Reasonable Suspicion - A belief based on objective facts, sufficient to lead a reasonably prudent supervisor 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 so that the employee's ability to perform his/her job safely is reduced. For example, any of the following, alone or in combination, may constitute reasonable suspicion, provided that such factor would be sufficient to lead a reasonable person to suspect drug or alcohol use to be involved:

- i. Slurred speech;
- ii. Alcohol odor on breath;
- iii. Unsteady walking and movement;
- iv. An accident involving City property and/or causing bodily injury;
- v. Physical altercation;
- vi. Verbal altercation;
- vii. Unusual behavior;
- viii. Possession of alcohol or impairing drugs;
- ix. Information obtained from a reliable person with personal knowledge.

Refusal - A failure to comply with any part of the testing process, including failure to appear for any test within a reasonable time, after being directed to do so by the employer; failure to remain at the testing site until the testing process is complete; failure to remain at the scene of an accident without just cause to leave prior to submitting to a test; failure to provide a urine specimen or breath or saliva sample for any drug or alcohol test required; in the case of direct observation or monitored collection, failure to permit the observation or monitoring; failure to provide sufficient amount of urine when directed; failure or declination to take a second test the employer or collector gives direction to take; failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process or as directed by the DER; and finally, is reported by the MRO as having a verified adulterated or substituted test result.

Rehabilitation - The total process of restoring an employee to satisfactory work performance through constructive confrontation, referral to a Substance Abuse Professional (SAP) and participation in SAP recommendations such as education, treatment and/or support groups to resolve personal, physical or emotional/mental issues which contributed to job problems.

Substance Abuse Professional (SAP) - A licensed physician (M.D. or D.O.), or a licensed or certified psychologist, social worker, employee assistance professional, or drug and alcohol

counselor with knowledge of, and clinical experience in, the diagnosis and treatment of substance abuse disorders.

Substituted Specimen - A specimen with creatinine and specific gravity levels that are so diminished that they are not consistent with normal human urine.

V. Employee Responsibilities

An employee must:

1. not report to work while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
2. not possess or use alcohol or impairing drugs during working hours or while on standby duty with pay or at any time while on duty on City property or in uniform;
3. not directly or through a third party manufacture, sell or provide drugs (illegally) or alcohol to any person, including any employee in the workplace;
4. submit immediately to an alcohol and/or drug test requested by a manager or supervisor, when reasonable suspicion as defined in this policy, exists;
5. notify his/her 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. provide, within twenty-four (24) hours of a request, bona fide verification of a current 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. notify the City Manager, in writing, of any criminal drug statute conviction for a violation occurring in the workplace, no later than five (5) work days after such conviction. Under the terms of the Drug-Free Workplace Act of 1988, federal contracting agencies will be notified within ten (10) days of notice of such conviction, as appropriate;
8. report alcohol or drug abuse, or reasonable suspicion thereof, by any City employee, including a manager or supervisor, to a Department Head or the City Manager.

VI. Management Responsibilities and Guidelines

1. Managers and supervisors are responsible for adhering to and abiding by all of the employee responsibilities as listed in Section V. above.
2. Managers and supervisors are responsible for reasonable enforcement of this policy.
3. Managers and supervisors are responsible for attending training provided by the City to recognize the physical, behavioral, speech, and performance indicators of probable alcohol misuse and controlled substance use as defined under Reasonable Suspicion as part of their role in policy enforcement.
4. Managers and supervisors may request that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated, or under the influence of drugs or alcohol while on the job or standby duty.

5. Any manager or supervisor requesting an employee to submit to a drug and/or alcohol test should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs. Attachment "C" is to be used for this purpose. Once completed, Attachment "C" shall then be routed to the applicable Department Head or designee. A second person must confirm the suspicion of alcohol or drug abuse.
6. Any manager or supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this policy. Where there is reasonable suspicion that the employee is then under the influence of alcohol or drugs, the manager or supervisor should direct the employee to go home, but should ask the employee to remain on the premises for a reasonable period of time until the employee can be safely transported home.
7. Managers and supervisors shall not physically search the person of employees, nor shall they search the personal possessions of employees without the freely given consent for each search. Any search must be in the presence of the employee. Coercion is strictly prohibited.
8. Managers and supervisors shall notify their Department Head or designee when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the City. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement agency.

VII. Tested Substances

The drug and/or alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana and other cannabinoids.

Under AB 2188, drug testing for applicants in non-safety sensitive positions, including testing for marijuana, must only include testing for psychoactive components of THC.

VIII. Results of Drug and/or Alcohol Analysis

A. Pre-employment Physicals

- i. A positive result from a drug and/or alcohol analysis may result in the applicant not being hired where the applicant's use of drugs and/or alcohol could affect requisite job standards, duties or responsibilities.
- ii. If a drug screen is positive at the pre-employment physical, the applicant must provide within twenty-four (24) hours of request, bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name, or the applicant does not provide

acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

- iii. A positive result from a drug and/or alcohol analysis shall preclude an applicant from reapplying for a job with the City for a six (6) month time period.

B. During Employment Physicals or Alcohol/Drug Tests

- i. A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including termination. If the drug screen is positive, the employee must provide within twenty-four (24) hours of request, bona fide verification of a valid, current prescription for the drug identified in the drug screen or verification (i.e., a doctor's statement of medical necessity, anticipated duration and follow-up) of use of over the counter drugs that could produce the positive result. A prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor of the use of medication as required by this policy, the employee will be subject to disciplinary action, up to and including termination.
- ii. If an alcohol or drug test is positive for alcohol or drugs, the City shall conduct an investigation to gather all facts. The decision to discipline or terminate employment will be carried out in conformance with the Personnel Rules.
- iii. A "Last Chance Agreement," may be used for an employee who agrees to seek help through the Employee Assistance Program.

IX. Confidentiality

Laboratory reports or test results shall not appear in an employee's general personnel folder. Information of this nature will be contained in a separate confidential medical folder . Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

Employee consent will be requested prior to disclosure of test results to anyone else. However, test results may be used in arbitration, administrative hearings and court cases arising as a result of the employee's drug and/or alcohol testing. If an employee is to be referred to a treatment facility for evaluation, test results will be made available to the employee's counselor. However, the results of drug and/or alcohol testing will not be used against an employee in any criminal prosecution. In addition, test results will be disclosed if compelled by law or judicial or administrative process. The City is obligated by law to release testing history to subsequent employers when potential employment requires a commercial driver's license.

ATTACHMENT "A"
CONSENT TO PRE-PLACEMENT PHYSICAL EXAMINATION
AND RELEASE OF MEDICAL INFORMATION

Explanation

The pre-placement physical examination is a part of the application process for employment with the City of Colusa. All pre-placement physical exams and medical tests have been determined medically necessary to the functions of the job for which the applicant is testing. Employment with the City of Colusa is contingent upon conducting a drug and alcohol screening urine test as part of this process. Hiring decisions may be based on the results of these medical tests. Failure to submit to the drug and alcohol test will result in denial of the application for employment.

Authorization

I hereby authorize a qualified representative and/or medical provider to conduct the above-stated medical tests and pre-placement physical examination. I understand that the physical examination and testing is a part of the application process for employment with the City of Colusa and that a hiring decision may be based on the results of the physical examination. I further authorize _____ to release to the City all test results conducted as a part of the physical examination and other job related medical information.

Signature of Applicant

Date

Signature of Witness

Date

ATTACHMENT "B"
DRUG AND/OR ALCOHOL TESTING CONSENT AND RELEASE

- Random (D.O.T.)
- Reasonable Suspicion
- Last Chance / Follow-up
- Post Accident

I hereby authorize a qualified representative and/or medical provider to take a urine/breath test or other specimens for laboratory analysis for the purpose of drug/alcohol testing. I further authorize the qualified representative and/or medical provider to release all above-mentioned test results and other relevant medical information obtained as part this drug/alcohol screening to the City Manager or designee (DER) or designee of the City of Colusa, and to such other persons or agencies as may be requested by law. This release and consent form is subject to the terms and conditions of both the Alcohol and Drug Abuse Policy (A.R. 2.08) and the Controlled Substances and Alcohol Testing Policy for Employees Required to Possess a Commercial Driver's License (A.R. 2.08.1) adopted by the City of Colusa, as applicable. I understand that the collection of such specimens shall conform with these policies. My refusal to submit to any required test shall be deemed a positive test result. An employee who refuses to comply with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty, and is subject to disciplinary action, up to and including termination. Additionally, a Covered Employee as defined in A.R. 2.08.1 may be liable for penalties as provided in federal statute. A photocopy of this authorization will have the same validity as the original.

Signature of Employee

Date

Signature of Witness

Date

ATTACHMENT "C"

