

**CITY OF DILLINGHAM  
GENERAL ALCOHOL AND DRUG TESTING**

**1 POLICY**

It is the policy of the City of Dillingham, that the unlawful manufacture, distribution, dispensation, use or possession of any alcoholic substance or drugs, including barbiturates, hallucinogens, marijuana, or derivatives, cocaine, opium, heroin or other mind altering substance, other than prescribed medication, during working hours shall be prohibited.

Additionally, employees shall not take such substances during lunch hours, or shall not report to work at any time within eight hours of such use of such substances. Employees shall not transport such substances in vehicles or equipment owned by the City.

**2 INDIVIDUALS SUBJECT TO TESTING**

**2.1 Safety class and Operators.** Any person who is a public safety employee, or an employee who operates a city owned vehicle or equipment within City limits may be subject to mandatory or random drug and alcohol tests. Holders of Commercial Drivers Licenses (CDLs) are subject to federal requirements for drug testing whose violation can result in loss of employment. CDL requirements are in addition to the general drug testing provisions of this policy.

**2.2 All Employees.** All City employees are subject to reasonable suspicion testing outlined below.

**2.3 Job Applicants.** Candidates for certain jobs may require drug testing, as designated by management, regardless of whether the job applicant is a current City employee. Such designations are subject to change. It is the responsibility of a job applicant to inquire to learn whether drug testing is required for that position.

**3 CIRCUMSTANCES WHICH TESTING MAY BE REQUIRED**

**3.1 Reasonable Suspicion Testing.** If a supervisor, department head, or the City Manager has reasonable suspicion that an employee is under the influence of alcohol or a prohibited drug, which suspicion is supported by current and specific information concerning the employee's behavior, appearance, speech or odor, immediately before, during, or immediately after the employee has been on duty in any job, the supervisor shall

- (a) immediately stop the employee's work;
- (b) complete the Supervisor Reasonable Suspicion Checklist;
- (c) inform the employee of the suspicion of alcohol and/or drug use and of the supervisor's determination that a drug or alcohol test should be administered. (If practical, the supervisor will arrange for the presence of a second supervisor or other witness during this notification to the employee.);

- (d) contact the program administrator to arrange for the employee to be tested; and
- (e) have the employee transported directly to and from the testing facility and driven home or, if the test is known to be negative or at management's discretion other duties can be assigned under the circumstances, returned to the work site after the test.

The employee may request a confirmation test. If the test results are not immediately known, the employee will be placed on paid administrative leave until the test results are available.

Supervisors shall complete a Reasonable Suspicion Checklist within 24 hours after the supervisor's initial determination that an employee appears to be under the influence of alcohol or drugs, or before the results of the test are released, whichever is earlier.

If the test does not occur within 2 hours after the supervisor's initial determination, the supervisor shall document the facts and circumstances giving rise to the delay.

To ensure the safety of others, any employee who knows or suspects that another employee is under the influence of drugs or alcohol shall report this suspicion to the observing employee's supervisor immediately.

**3.2 Confirmation Testing.** All positive drug and alcohol tests shall be verified via approved confirmation test methods, as required.

## **4 SUBSTANCES WHICH TESTING MAY BE REQUIRED**

**4.1 Prohibited Drugs.** The manufacture, distribution, dispensation, use or possession of any drugs, including barbiturates, hallucinogens, marijuana, or derivatives, "spice" or synthetic cannabinoids, cocaine, opium, heroin, or other mind altering substance, other than prescribed medication, during working hours shall be prohibited. Employees shall not arrive for work under any degree of impairment from such prohibited substances.

**4.2. Prescribed Drugs.** Safety-sensitive employees covered under 2.1, above, may have additional limitations on prescription drug use. However, all employees may use prescription drugs during the workday only as lawfully prescribed, within the safety labels of the drug, and only within the directions given by their state licensed medical doctor. Prescribed drug use shall not adversely affect an employee's performance, impair the safety of the employee's work, or create a perception of impairment among coworkers. Employees are responsible for understanding the effect of prescription drug use on their work and talking to management or taking time off to prevent being under the influence, or the appearance of being under the influence, during the workday, and may be subject to discipline for failing to do so. Employees who appear impaired will be subject to the same provisions across this policy, regardless of whether the impairment was due to prescription drug use or illicit drug use. Third-party drug testers may return a "negative" result for tests showing drug use within the bounds of a valid prescription. Regardless of this or of whether a third-party drug test has been completed, however, the employer may take steps to prevent impairment, including but not limited to

requiring the prescribing doctor to certify that the drug use will not impair or make unsafe performance of job duties, or requiring a confidential accounting of prescription drugs being taken to the Human Resources Manager or designee.

**4.3 Alcohol.** The use or possession of any alcoholic substance during working hours shall be prohibited. Employees shall not arrive for work under any degree of impairment from alcohol.

## **5 TESTING METHODS AND COLLECTION PROCEDURES**

**5.1 Drug Testing.** Drug tests will be conducted via urinalysis. Samples will be collected and testing administered by a third party lab according to industry best practices and the standards of AS 23.10.645. Tests shall be performed under reasonable and sanitary conditions with maximum amount of privacy given to the employee. Cutoff levels to determine a positive test result are defined by the US Department of Health and Human Services.

**5.2 Alcohol Testing.** Alcohol tests will be conducted via breath or blood test. Samples will be collected and testing administered by either a third party lab or the City police department. The Tests shall be performed under reasonable and sanitary conditions with maximum amount of privacy given to the employee. Cutoff levels to determine a positive test result is .02 percent blood alcohol by breath or blood test.

**5.3 Confirmation Testing.** All positive drug and alcohol tests shall be verified via approved confirmation test methods. Drug testing confirmation shall be by mass spectrometry. A licensed physician or doctor of osteopathy will review the results of any positive confirmation test with the employee within 48 hours of the positive result.

**5.4 Time of Testing.** The City shall normally schedule drug tests during or immediately before or after a regular work period. Testing time shall be considered work time with the City paying the entire actual costs for the drug tests as well as reasonable transportation costs if the test is conducted at a location other than the employee's normal worksite. For pre-employment screenings, the candidate shall be responsible for their own transportation to and from the screening location.

## **6 REFUSAL TO PARTICIPATE IN TESTING**

**6.1 Refusal to be Tested.** The City will treat a refusal to be tested, whether the testing is random or for reasonable suspicion, as a positive test. Each of the following constitutes refusal to submit to testing:

- (a) Failure to provide adequate breath for testing without a valid medical excuse from a state-licensed medical doctor;
- (b) Failure to provide adequate urine for testing within a reasonable time without a valid medical explanation from a state-licensed medical doctor;
- (c) Failure to report on time, or to sign or initial testing documents, as required;

- (d) Refusal to be tested; or
- (e) Leaving the scene of an accident without a valid reason before tests are conducted.
- (f) Failing to follow the directions or to cooperate with the tester, such that the tester deems the result positive or does not obtain a sample.

**6.2 Consequences of Refusal to be Tested.** An employee who refuses to make themselves available for, or to submit to, or to cooperate and follow the directions given for a drug or alcohol test mandated or authorized by these policies shall be subject to disciplinary actions, up to and including dismissal.

## **7 DISCIPLINARY ACTION RELATED TO DRUG AND ALCOHOL TESTING**

**7.1 Temporary Adverse Action.** An employee who tests positive, refuses to be tested, or performs an act prohibited under this chapter will be removed from duty immediately. The employee will be placed on administrative leave pending determination of the appropriate discipline.

**7.2 Permanent Adverse Action.** An employee may be subject to any disciplinary action the City sees fit, including but not limited to, written reprimand, suspension without pay, demotion, or dismissal. Non-disciplinary remedial or corrective actions such as transfer or change in job duties may be taken as well.

**7.3 Discipline Not Limited by Policy.** This policy described the ideal actions that the City should strive to take when an employee is to be tested for drugs or alcohol. It is important for employees to understand that the failure of the City, its managers, employees, or testers, to follow this policy does not preclude discipline for misconduct, nor does a negative test result preclude discipline. For instance, an employee who fails to remain alert, fails to report for duty, or acts erratically on the job may be subject to discipline for misconduct, even if a subsequent drug test is negative for prohibited substances, or is positive only for valid prescription drugs. Likewise, if the City fails to arrange drug testing, the City may make a disciplinary determination based on the evidence available to management of misconduct.

**7.4 City's Option for Rehabilitation and Retention.** The City may choose to work with a substance abuse professional to rehabilitate an employee who has tested positive or otherwise committed one or more acts prohibited by this policy, but the City is under no obligation to retain the employee, even if the rehabilitation is successful. Determination whether to retain the employee will depend on the employee's history of conduct and performance and cooperativeness during the investigation. An employee who participates in a rehabilitation plan approved by the SAP Substance Abuse Professional and Program Administrator may take leave in accordance with City policy for the purpose of undergoing the approved dependency treatment program.

Other than any covered City Employee Assistance Program, no rehabilitation program or treatment services will be paid by the City for the purposes outlined in this section.

## **8 EMPLOYEE RIGHTS**

**8.1 Right to Records.** Records pertaining to an employee's drug and alcohol testing will be made available to employee upon written request by the employee. If the written request is made within six months after the date of the test, the City will provide written test results within five working days after the request is made.

**8.2 Right of Explanation of Positive Test Result.** The employee has the right, within 10 working days of notification of a positive test result, to request an explanation of the request the opportunity to explain their test result to the employer in a confidential setting. Such a request must be made by the employee in writing. The City will provide such an opportunity, in a confidential setting, within 72 hours of receipt of the written request, or before taking any adverse employment action after the written request, whichever occurs later. After receiving the employee's written notice, for the employee to consult with a licensed physician or doctor of osteopathy concerning the confirming test result, the interpretation and an evaluation of the positive drug test for legal use, and the potential impact of prescription medication on the result.

## **9 CONFIDENTIALITY OF TEST RESULTS**

**9.1 Security of Records.** All records pertaining to employee and applicant drug and alcohol testing shall be maintained in a secure location, and access shall be controlled in the same manner as other confidential personnel records.

**9.2 Release of Records.** Test results will be shared with the employee (or a person they authorize/designate in writing).

**9.3 Disclosure by the City.** Disclosure of Records in Lawsuit, Grievance, Etc. The City may disclose information pertaining to an employee that it is required to maintain under this policy to the decision-makers in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee. This includes individuals designated by the City to receive results or hear explanation of the employee concerning results, courts, and government agencies.