

ALCOHOL AND DRUGS

DRUG-FREE WORKPLACE POLICY

Employees of the City of Mills are the most valuable resource and, therefore, their health and safety are a serious concern. This policy has been developed to provide a clear set of rules and procedures to provide a drug-free workplace for City employees. This policy is consistent with the provisions of the drug-free workplace Act of 1988, which was signed into law in November 1988. The intent of the policy is to promote a work environment free from the effects of drugs and alcohol by:

- Screening applications for public safety and other at-risk City positions.
- Providing for a screening of substances when a supervisor has reasonable suspicion that an employee is impaired by drugs or alcohol.
- Requiring appropriate discipline for employees who violate the City of Mills policies on using and/or distributing controlled substances at the work site.

Substance abuse can be reasonably expected to produce impaired job performance, lost productivity, absenteeism, accidents, wasted materials, lowered morale, rising healthcare costs, and diminished interpersonal relationship skills. The City of Mills Government and its employees share a commitment to create and maintain a drug-free workplace. It is not the City's intent to intrude into the private lives of employees. However, the effect of drug and alcohol abuse on safety and work quality requires a drug-free workplace policy.

The City has a dual responsibility – provide a safe, healthful workplace for its employees and protect the safety and health of the public. So, a City employee under the influence of illegal drugs creates a potentially dangerous situation not just for other City employees but for the public as well. To help prevent such a situation from occurring, the City established a Drug-Free Workplace Policy. The policy states that:

- The abuse of drugs, including alcohol, by Elected Officials, Department Heads, employees, or contract personnel is unacceptable because it adversely affects health, safety, security, and productivity as well as public confidence and trust.
- Use, swallowing, inhaling, injecting, attempt to possess or use, manufacture, distribute, dispense, or participate in the transfer, sale, offering, or possession of unauthorized alcohol, illegal drugs, prescription drugs, or other controlled substances while on the job or on City premises is dangerous and is absolutely prohibited at the workplace.
- Employees who are off duty and have been drinking or under the influence of drugs are obligated to refuse any emergency calls.
- It is a violation of City policy for any employee to report to work under the influence of or while possessing in his or her body, blood or urine, illegal drugs in any detectable amount.
- It is a violation of City policy for any employee to report to work under the influence of or impaired by alcohol.
- It is a violation of City policy for any employee to use prescription drugs illegally, i.e., to use prescription drugs that have not been legally obtained or in a manner or for a

purpose other than as prescribed. However, nothing in this policy precludes the appropriate use of legally prescribed medications.

- As a condition of employment, City employees must abide by the drug free workplace policy.
- Violation of any element of this policy shall result in disciplinary action up to and including termination.

All employees are responsible for their own compliance with the Drug Free Workplace Policy and with all related federal, state, and local laws and regulations. Human Resources is responsible for dealing with violations or related matters by employees. Employees with questions on this policy or issues related to drug or alcohol use in the workplace should raise their concerns with their supervisor, Department Head, Elected Official or the Human Resources Department without fear of reprisal.

It is the responsibility of the City of Mills' supervisors, Department Heads, and Elected Officials to counsel employees whenever they see changes in performance or behavior that suggest an employee has a drug or alcohol problem. Although it is not the supervisor's job to diagnose personal problems, the supervisor should encourage such employees to seek help and advise them about available resources for getting help. Everyone shares responsibility for maintaining a safe work environment, and co-workers should encourage anyone who has a drug or alcohol problem to seek help.

The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive, and drug-free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the illegal use of drugs and the abuse of alcohol are incompatible with employment with the City of Mills.

The City of Mills offers resource information on various means of employee assistance in our community, including but not limited to drug and alcohol abuse programs. Employees are encouraged to use this resource file, which is located in the Human Resources Department. In addition, we will distribute this information to employees for their confidential use.

Any employee reporting to work visibly impaired will be deemed unable to perform required duties and will not be allowed to work. If possible the employee's supervisor will first seek another supervisor's opinion to confirm the employee's status. Next, the supervisor will consult privately with the employee to determine the cause of the observation, including whether substance abuse has occurred. If, in the opinion of the supervisor, the employee is considered impaired, the employee will be sent home or to a medical facility by taxi or another safe transportation alternative – depending on the determination of the observed impairment – and accompanied by the supervisor or another employee if necessary. A drug and alcohol test will be required. An impaired employee will not be allowed to drive.

Law enforcement personnel drug testing policy. The Police Department has a separate drug use and drug testing policy which has been communicated to those affected by the policy; however, the limitations imposed by this policy herein shall not be undermined and shall serve as a minimum guideline.

Definitions

- **Employee** – For use in this policy the term “employee” means any individual receiving worker’s compensation coverage, regardless of their position.
- **Under the influence** – For use in this policy the term “under the influence” means the use or misuse of any drug or controlled substance, or alcohol that result in a positive drug/alcohol test.
- **Illegal drugs** - As used in this policy, the term “illegal drugs” means a controlled substance included in Schedule I or II, as defined by section 802(6) of Title 21 of the United States Code, and as further defined in Regulation 21 CFR 1308.11- 1308.15, the possession of which is unlawful under Chapter 13 of that Title or the Wyoming Controlled Substances Act, Wyoming Statutes Sections 35-7-1001 through 35-7-1060. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law, however, it does include: (1) any drug which is legally obtainable but has not been legally obtained by the employee; (2) any prescribed drug not legally obtained by the employee; and (3) any prescribed drug not being used for the prescribed purpose or not being used at the prescribed dosage. Examples of illegal drugs are cannabis substances, such as marijuana and hashish, cocaine, heroin, methamphetamine, phencyclidine (PCP), and so-called designer drugs and look-alike drugs.
- **Convictions** - For use in this policy “convictions” means a finding of guilt (including a plea of nolo contendere), diversion or imposition of sentence or any combination of these, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
- **Reasonable Suspicion** - For the purpose of this policy, “reasonable suspicion” means a suspicion based on objective facts significant enough 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 not be limited to, decreases in the quality or quantity of the employee’s productivity, judgment, reasoning, concentration and psychomotor control, and marked changes in behavior. Accidents, deviations from safe working practices, slurred speech, the odor of alcohol, problems with physical balance or other erratic conduct indicative of impairment may be examples of “reasonable suspicion” situations.

A consequence of violating the City’s Alcohol and Drug Policy may include automatic dismissal.

Required Types of Substance Abuse Testing

Pre-employment Effective on the date of approval, the City will require pre-employment drug and alcohol screening for all applicants who have received a conditional offer of employment.

The notification of the requirement to submit to substance abuse testing having been attached to the vacancy announcement posted by the City shall suffice as proper pre-employment notice to all applicants. The current screening process will be conducted by urinalysis but may be

conducted by blood testing, saliva testing, or other reliable methods which might evolve in the future. The City will be responsible for testing methods and procedures. Changes to this policy will cover any new changes required by Department of Transportation regulations for Commercial Driver's License (CDL) holders and for those in safety-sensitive positions. (Amended May 6, 2014, by Resolution 17-14).

After a conditional offer of employment and before an employee is hired, or, if the applicant has begun employment, the applicant's employment shall be immediately terminated if a positive test result is found. The conditional offer shall be withdrawn if the test indicates a positive result or if the testing facility staff, physician, or lab personnel believe the sample was tampered with or altered.

The City of Mills will not discriminate against applicants for employment because of a past history of drug or alcohol abuse. It is the current illegal use of drugs and/or abuse of alcohol, preventing employees from performing their jobs properly, that the City of Mills will not tolerate.

Random Testing The City will randomly drug and alcohol test employees for compliance with its drug-free workplace policy on a quarterly basis. Random testing means that employees will be selected for testing using a chance-based system. Using this system ensures that all employees have an equal probability to be chosen from within the entire employee pool. Exceptions to this clause affect only those under DOT regulations wherein twenty (20) percent of the CDL holders will be subject to chance selection; whereas only seven (7) percent of non-DOT personnel will be subject to the same quarterly testing.

Each quarter the human resources department will notify the selected employee or his/her supervisor of the requirement to comply with random testing. Testing must be completed on the same work day the employee is selected, at the earliest opportunity, unless extenuating circumstances, such as out-of-town travel, exist. In all circumstances, testing must be completed within twenty-four (24) hours of selection.

If an employee selected for testing is unavailable for a legitimate reason such as an extended medical absence, human resources will document the circumstances for a failure to test.

The City of Mills has no discretion to waive the selection of an employee selected at random. To extent permitted by law, the City shall conduct random testing, at a minimum, on twenty (20) percent) of the average staff on an annual basis.

Suspected Impairment/Reasonable Suspicion When there is reasonable suspicion to believe that an employee is illegally using drugs or abusing alcohol. Among other things, such reasonable suspicion may be based upon, but not limited to, the following:

- Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse;
- Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;

- A report of substance abuse provided by a reliable and credible source;
- Evidence that an individual has tampered with any substance abuse test during his or her employment with the City of Mills;
- Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on City of Mills' premises or while operating City of Mills' vehicles, machinery, or equipment;
- Presence of observable symptoms consistent with drug or alcohol use; including but not limited to, glassy or bloodshot eyes, alcohol odor, slurred speech, poor coordination and/or reflexes;
- Involvement in an on-duty accident or incident. City employees who are involved in an on-duty accident or incident resulting in any of the following shall be subjected to drug and/or alcohol testing;
- Loss of life;
- Employee injury or injuries to others requiring medical treatment away from the place of the accident or incident.
- Damage, estimated to be greater than or equal to \$1,000.00, to property or vehicles while operating a City vehicle;
- Employee cited at the time of the accident/incident by a state or local law enforcement officer for a moving traffic violation or
- Any factor from which it is reasonable to infer that further investigation of the accident or incident, or the employee's behavior, is warranted.

Supervisors shall reasonably detail, in writing, the specific facts, symptoms, and/or observations, as well as any corroboration, which formed the basis for their determination that reasonable suspicion existed. This documentation shall be on the backside of the "Consent to Test and Release of Information" form, available through Human Resources or on a separate piece of paper attached to the consent form. In addition, this documentation is to be forwarded to the Department Head or Elected Official and the Human Resources Director.

The facts and documentation underlying the determination of reasonable suspicion shall be disclosed to the employee at the time the demand for testing is made.

An employee, pending a drug/alcohol test, shall be temporarily removed from his or her job duties pending an investigation and shall be placed on unpaid administrative leave until the results of the drug/alcohol tests are received. The employee shall not be allowed to drive to or from the testing site, and the employee will be escorted to the testing facility and home by the supervisor, Department Head, Elected Official, and/or Human Resources Director. Employees who are required to submit to drug and/or alcohol testing due to reasonable cause will not be allowed to drive City vehicles until they have been released to do so by the Human Resources Director.

If an alcohol test is not administered within eight hours or if a required controlled substance test is not administered within thirty-two hours of the determination of its necessity, attempts to administer such test shall be abandoned, and the reasons why the test was not administered shall be documented. Copies of this documentation shall be supplied to the Human Resources Director and maintained in a secure file.

Post Accident The City will conduct drug and alcohol screens for all employees involved in an accident while in the line of duty when one of the following circumstances exists:

- If the accident involved loss of human life;
- Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident;
- If the driver received a citation under State or local law for a moving traffic violation;
- One or more motor vehicles incurring disabling damages as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle or
- City equipment or property is damaged.

All exceptions must be authorized by the immediate supervisor in consultation and agreement with the Human Resources Director or his/her designee at the time of the accident.

Searches Employees and their personal property may be searched when there is reasonable suspicion to believe that the employee has violated this policy or when circumstances or workplace conditions justify such a search. Employees are expected to cooperate fully.

Refusal to Test Any employee who refuses to consent to drug or alcohol testing as required under this policy, tampers with a sample, or otherwise violates this policy may be placed on leave with or without pay until appropriate corrective action is determined provided, however, that refusal to consent to test is considered grounds for termination of employment.

Testing Costs The City will pay the costs of all drug tests to which the City requires an employee to submit. Any additional testing requested by the employee will be at that employee's expense.

Positive Results If an employee tests positive on an initial screening test, the employee will be temporarily suspended while a confirmation test is being conducted.

A positive test result confirmed by a medical review officer of the testing laboratory will result in disciplinary action, up to and including termination. Discipline selected by the City of Mills will depend on a variety of factors, including the prior work record of the employee, the length of employment, the prior accident and attendance record of the employee, the circumstances that led to testing, and proposals by the employee to address the problem. (See Disciplinary Action)

All employees have the right to discuss their test results with testing laboratory personnel and their supervisors. These discussions should be considered confidential except that information disclosed will be communicated to personnel within the City of Mills or within the laboratory who need to know such information to make proper decisions regarding the test results or regarding the employment of the individual.

Review of Drug Test Results The City will not solely rely on a positive drug test unless the confirming drug test results have been reviewed by a Medical Review Officer (MRO) designated by the City. The MRO shall be a licensed physician or doctor of osteopathy. The City reserves the right to utilize the MRO employed by or contracted to those providers of drug testing services. The MRO shall review all confirmed positive drug results and interview individuals

who tested positive to verify the laboratory report. The MRO shall contact the employee within 48 hours of receiving the test results and offer an opportunity to discuss the confirmed test result. The MRO will inform the employee that he or she has 72 hours to request a retest of the sample. A retest is an analysis of an aliquot of the original sample. The retest will be performed by a laboratory approved or certified by the Substance Abuse and Mental Health Services Administration or of the employee's choice. The employee will be responsible for the cost of the retest and will be reimbursed by the City only if the sample comes back negative. If the MRO determines that there is a legitimate medical explanation for the positive test result, the MRO shall report the test as negative. Test results that have been caused by legitimate use of prescription medication will be reported as negative.

The Human Resources Director or his/her designee shall inform an employee's supervisor of a confirmed positive test result.

Any employee who is the subject of a positive test result must provide written notification to their employer within five (5) business days of a confirmed positive result. Within said notification, the employee must either explain or contest the results of testing.

Confidentiality of Results and Records Retention The Human Resources Director or her/his designee shall maintain records of alcohol, controlled substance, and drug misuse in a secure location with access restricted to the employee, the City Attorney, the Human Resources Director, the employee's supervisor, Department Head or Elected Official. The following records shall be retained for five years:

- Records of alcohol test results showing blood alcohol content.
- Records of verified positive controlled substance/drug test results.
- Documentation of refusals to take required alcohol or controlled substance/drug tests.
- Consent to test and release information forms.

The employee's test results shall be available for inspection by the employee. Records relating to an employee's drug/alcohol testing or misuse of drugs/alcohol may be used and disclosed in any and all termination or disciplinary actions or proceedings by the City. Such records shall not be released to other third parties without the employee's consent absent a court order.

The confidentiality of an employee's drug/alcohol testing and the records related thereto shall be waived for purposes of hearings and further proceedings if the employee appeals his/her termination, or brings or commences an action against the City in any court or administrative agency which is based on, or in any way related to the employee's drug/alcohol test. The City shall have the right to disclose and use the employee's drug/alcohol records and documentation only in the defense of, and in the course of any such appeal, court, or administrative action.

Prescription Drugs or Over – The – Counter – Medications You must not use or take prescription drugs above the level recommended by your prescribing physician and must not use prescribed drugs for purposes other than those for which they are intended. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace. Employees who are under a physician's care and taking medication that may affect their ability to work safely are responsible for

informing their supervisor, Department Head, or Elected Official of their condition before beginning work.

If an employee is taking a prescribed medication that may impair their ability to perform job functions safely and efficiently, the employee is required to provide their supervisor, Department Head, or Elected Official prior notice of such use and may be requested to obtain documentation from their physician confirming their ability to safely and efficiently perform the functions of their position while taking the prescribed medication. An employee who is unable to perform their position safely and efficiently due to a prescribed medication may be entitled to paid or unpaid leave under other City policies.

Supervisors and Employee Training The City of Mills provides employees with a minimum of one (1) hour of substance abuse training on an annual basis. This training identifies the hazards of drug and alcohol use in the workplace, identifies the symptoms that may indicate drug or alcohol use in the workplace, discusses drug testing, how it works, and its role in a drug-free workplace, and reviews the City of Mills drug policy.

To inform supervisors about important provisions of this policy, the City of Mills provides Department Heads, Managers, and Supervisors with a minimum of two (2) hours of training on an annual basis. This training, while encompassing that covered in employee training, further covers both alcohol and drug use, with approximately sixty (60) minutes being spent on each subject.

Employee Assistance The Human Resources Department can provide employees with educational materials regarding drug and alcohol use, treatment, and rehabilitation. Employees may be eligible for paid or unpaid time off for the purposes of obtaining such treatment.

Rehabilitation Programs There are currently several Drug and Alcohol Rehabilitation Facilities in Natrona County, and the Human Resources Department has a list of current providers.

Voluntary Rehabilitation City of Mills intends to provide a drug-free environment for all its employees. Alcohol and drug addiction are illnesses that, under many circumstances, can be successfully treated. The City encourages any employees with an alcohol or drug dependence problem to voluntarily enter a rehabilitation program.

If an employee self-discloses a drug and/or alcohol problem to their Department Head and/or the Human Resources Director before being suspected of being under the influence of drugs or alcohol or before being selected for a random test for drugs/alcohol pursuant to this policy, no disciplinary action will be taken against the employee for the act of self-disclosure. Such an employee will be advised that he or she may access the Family Medical Leave Act (FMLA) policy to seek help from a substance abuse professional.

Any employee who feels that he or she has developed a problem, addiction, or dependency on a drug, including alcohol, is encouraged to seek assistance.

Employees Driving City Vehicles Those employees chosen for employment (or employed) in City positions for which driving a City vehicle or City equipment is required may be subject to drug testing as pre-employment, reasonable suspicion, random, and post-accident. Those positions requiring Class A or B Commercial Driver's Licenses are subject to provisions of the regulations of the United States Department of Transportation. Compliance with the minimum requirements of the U.S. Department of Transportation and its minimum consequences does not guarantee an employee will be returned to work following a violation of the City of Mills Policy. Employees driving City vehicles are required to maintain an acceptable driving record and a valid driver's license. Any City driver whose status is in violation of the City of Mills Safety Manual driving record criteria guidelines and/or whose driver's license becomes suspended or revoked may not drive any vehicle on City business and may be subject to duty reassignments, discipline or termination.

Disciplinary Action The City may take disciplinary action when an employee's job performance is impaired because they are under the influence of drugs or alcohol on the job. The City may also discipline or terminate an employee who reports for duty or works under the influence of alcohol or controlled substances.

Disciplinary action shall at all times be appropriate to the infraction committed and generally progressive in nature. However, some conduct may be serious enough to warrant more serious discipline without progression. Actions that may be considered to warrant disciplinary action, are illegal use of drugs or being under the influence of illegal drugs while on duty or at the workstation.

The City shall notify all state and federal grantors/contracting agencies of such employee convictions as required by the federal Drug-Free Workplace Acts. "Conviction" means a finding of guilt, imposition of a sentence, a plea of no contest, or a plea of guilty.

Access to Policy The City shall attempt to distribute to all present employees a copy of this policy. Additional copies of this policy are available upon request to the Human Resources Director. By continuing to work, the employee agrees that he/she will abide by the policy as a condition of employment. Employees with questions arising under this policy may contact the Human Resources Director.

The City shall, under its attempt clause, notify all employees via conspicuous postings within its facilities, that employees are subject to substance abuse testing in accordance with the confines of the City of Mills' Drug-Free Workplace Policy.

Testing Procedures

1. Employees shall sign a "Consent to Test and Release of Information Form", located in the Human Resources Office, allowing the breath, hair, and/or urine test to take place and permitting the release of test results to the City and for the City's use in any and all employment disciplinary or termination actions or proceedings.
2. Employees, who refuse to sign the form, to be tested, or to otherwise cooperate in the testing process, shall be deemed to have tested positive and a recommendation for termination of employment shall be made.
3. Testing for drugs and alcohol and test sample verification shall be performed by certified

personnel selected by the City. The test specimen for alcohol will consist of a breath sample. The test specimen for drugs shall be urine or other means deemed necessary.

4. Confirmation for a positive alcohol test shall be done by a second breath test. The employee may request, at their expense, a blood test as confirmation.
5. Confirmation for a positive drug test shall be by testing the urine specimen that tested positive, on the initial screen, by using a technologically different method from the initial screening method, such as gas chromatography/mass spectrometry. All positive drug test results shall be reviewed and interpreted by a Medical Review Officer (MRO) before they are reported to the employer. "Medical Review Officer" means the individual responsible for receiving laboratory results, who is a licensed physician. If the testing laboratory reports a positive result to the MRO, the MRO shall contact the employee, in person or by telephone, and shall conduct an interview to determine if there is an alternative medical explanation for the drugs found in the employee's urine specimen. If the MRO determines that there is a legitimate medical use of the prohibited drug, the drug test result shall be reported as negative to the employer.
6. Each test specimen for drug testing shall be subdivided into two bottles labeled as a "primary" and a "split" specimen. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of a controlled substance, the employee, at her/his expense, has 72 hours to request the split specimen be sent to another certified laboratory for analysis. The employee will be reimbursed if the confirmation shows a negative result. The MRO initiates this procedure.
7. The City shall pay the cost of all tests that it requires. If an employee is required to submit to an examination or test, or await test results (except for reasonable suspicion testing) the employee shall be paid his or her normal rate of pay during the testing and waiting period.
8. In the event that an individual to be tested for drugs appears unable to provide a urine specimen at the time of the test, he or she shall be permitted no more than three (3) hours to give a specimen, during which time the individual shall remain in the testing area, under observation. The individual shall be given no more than 40 ounces of water to drink over the course of the three hours. Whenever there is a reason to believe that a specimen may have been altered or a substitution made, a second specimen shall be immediately provided by the employee. The testing facility will provide documentation to the Human Resources Director explaining the reasons for a second specimen. Failure to submit a specimen shall be considered a refusal to submit to a drug and/or alcohol test unless a physician provides a documented medical reason. A refusal to submit to the drug/alcohol test shall be deemed to be a positive test and a recommendation for termination shall be made.
9. The Human Resources Director or his/her designee shall be advised of the results of the drug and/or alcohol test by the Medical Review Office

