

	<p>City of Albany Human Resources Policy Policy #: HR-SF-04-007 Title: Substance Abuse</p>	Safety
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Purpose The City considers its employees to be its most valuable asset and is concerned about their safety, health, and well-being. Substance abuse affects employee’s performance and general physical and mental health, which may jeopardize the safety of coworkers and the public. The City is committed to maintaining a safe and healthy workplace for all employees by identifying substance abuse and taking appropriate actions to correct that problem.

Policy **Covered Employees**
The pre-employment testing and random testing provisions of this policy cover only applicants for, and employees in, designated non-DOT and non-FTA “safety sensitive” positions; and applicants for, and employees in, positions that directly supervise “safety sensitive” positions. A listing of these positions is compiled in “appendix A” which is attached hereto.

All other provisions of this policy cover all non-DOT and non-FTA employees whether such positions are paid through the City’s payroll system, paid through contractual services or serving as a non-paid volunteer.

Provisions of collective bargaining agreements may prevail for bargaining unit positions.

Prohibited Conduct

The City expects and requires all employees to report to work in an appropriate mental and physical condition to work safely and effectively. No employee shall report to work or engage in work while having the presence of alcohol, illegal drugs, or any other disabling or controlled substance in his/her system. A breath alcohol concentration level of 0.02 or greater or a verified positive result on a drug test will be considered to be evidence of the presence of alcohol or a prohibited drug in one’s system. A verified test of more than 50 nanograms will be considered to be evidence of the presence of marijuana in one’s system. Compliance with this policy is a condition of employment. Any violation of this policy may subject the employee to discipline, up to and including suspension or discharge.

It shall be a violation of this policy to manufacture, distribute, possess, use, or be under the influence of alcohol, any illegal controlled substance, or any other substance which may impair the ability of the employee to perform required tasks in the workplace or while on City of Albany time outside of the workplace.

It is also in violation of this policy to use any prescription or nonprescription medications which may interfere with the safe and effective performance of duties or operation of City equipment or vehicles, without notifying his or her supervisor prior to beginning work or operating the equipment or vehicle.



Confidentiality

To ensure the confidentiality of test results and the privacy of employees, all communication concerning drug and alcohol testing, sample collection, test results, employee notification, and discipline will be handled only by an authorized representative of the City of Albany, the third party administrator, or the EAP.

Drug and alcohol testing records will be kept in a separate locked file not accessible to non-authorized personnel. No information will be communicated to any person who does not have a bona fide need to know.

Types of Testing

• **Pre-employment Testing**

After receiving a conditional offer of employment, all applicants or newly assigned employees in non-DOT and non-FTA safety sensitive positions must undergo mandatory drug testing. Refusal to consent to such testing will stop any further action toward employment, transfer, or promotion.

• **Random Testing**

Non-DOT and non-FTA safety sensitive employees will be subject to random and unannounced drug and/or alcohol testing. Testing will be unannounced and immediate and will allow no discretion by personnel as to who is selected or notified to proceed to testing. When a covered employee is notified that s/he has been selected for testing, s/he must report immediately to the designated collection site. The covered employee shall not be permitted to use restroom facilities, consume beverages, or smoke until specimen collection is completed. All subject employees will have an equal chance of being selected for testing, and will remain in the random selection pool even after being tested.

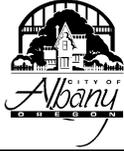
• **Reasonable Cause (or For Cause) Testing:**

Reasonable cause testing may be done in cases where there is a belief by a supervisor, or designee trained on controlled substance use and misuses, that an employee may be using drugs or alcohol while at work or reporting to work under the influence of drugs or alcohol or using prescription drugs illegally. Testing may be required when there is any:

1. Observable phenomena (actual use or possession; or possession of drug paraphernalia).
2. Employee statements acknowledging recent use of drugs.
3. Abnormal behavior (as specified in the Observed Behavior – Reasonable Cause Record Form) not satisfactorily explained by circumstances not attributable to drug use.
4. Accident on employer time involving a commercial motor vehicle or watercraft; machinery or mechanical devices; or any other unsafe use of equipment resulting in injury, loss of human life, or property damage/loss, when drug use is likely to have contributed to the incident.

Positive Test Results

In the case of a positive result, a Medical Review Officer (MRO) will contact the



employee prior to notifying the City of the result. The MRO will discuss any medications prescribed by the employee's physician, which may have affected the results of the test.

In the interest of occupational safety and health, any covered employee who has a verified positive drug and/or alcohol test result may be immediately removed from performance of duties until further notice, and advised of an available substance abuse professional (SAP) to evaluate and resolve any problems associated with drug and/or alcohol abuse.

Employees who question the validity of an alcohol or controlled substance test may request in writing a retest or a split sample test within 72 hours of the results of the original test. Retesting will be on the original specimen only, and will not delay the removal of an employee from their duties. The City shall offer an immediate confirming Breathalyzer test for alcohol should an alcohol test be positive.

Payment For Tests

Drug and alcohol tests for current employees will be conducted on employer time and paid for by the City of Albany. If an applicant or employee contests a positive result, that applicant or employee will be responsible for paying for any retest or split sample.

Disciplinary Action

Based on the facts leading to the discovery of the violation as solely determined by the City, employees may be referred to the Employee Assistance Program or a Substance Abuse Professional (SAP) for evaluation for possible treatment and/or may face disciplinary action up and including discharge. Bargaining unit employees shall have the right to Union representation upon request.

Refusal to Submit to a Test

An employee who refuses to submit to a drug or alcohol test must be evaluated by a SAP. An employee who refuses to submit to a drug or alcohol test will be placed on a paid leave of absence pending the results of the evaluation by the SAP and may be subject to discipline, up to and including suspension or discharge. A determination of a covered employee's refusal to submit to a test includes:

- Refusal to take the test
- Failure to provide a sample
- Failure to provide a sufficient specimen with no medical information
- Failure to remain at the testing site until the test is complete
- Tampering with or attempting to adulterate the specimen or collection procedure
- Not reporting to the collection site in the time allotted
- Not cooperating with the collection process
- Leaving the scene of an accident without a valid reason before the tests have been conducted
- Failure to undergo a medical evaluation as required by an MRO or DER for drug & alcohol testing



IN ANY EVENT, A REFUSAL TO TAKE THE TEST WILL BRING THE SAME CONSEQUENCES AS A POSITIVE RESULT; AND THE EMPLOYEE WILL IMMEDIATELY BE REMOVED FROM ANY SAFETY-SENSITIVE DUTIES.

Searches

The City reserves the right to search, without employee consent, all areas and property over which the City maintains joint or full control. All City vehicles, equipment, offices, desks, and lockers are subject to search by management. Searches, which are undertaken specifically to investigate violations of this rule, shall be conducted in the presence of the employee if practical. If the employee is not available, or if the employee so requests, a reasonable time will be allowed for a Union representative to be present, if the employee is represented, before a search is conducted. Such searches shall not be random, and the affected employee's elected Union officer(s) shall be notified prior to the search being conducted. The employee shall be entitled to have a witness present during the search.

The City further reserves the right to request that an employee submit to a search of the employee's clothing or personal property (such as a car on City property) when the Human Resources Director has determined that there is reasonable suspicion to believe alcoholic intoxicants, marijuana, or other controlled substances may be found. Assuming probable cause, refusal by the employee to submit to such a search of his or her clothing or personal property shall result in the matter being turned over to the appropriate police agency for its actions and may lead to discipline up to and including discharge.

Consequences for Search Results

An employee who is found to have controlled substances or open alcoholic intoxicants on City property will be disciplined up to and including discharge.

Voluntary Employee Assistance

The City encourages regular employees who feel they may be suffering from problems related to their use of drugs or alcohol to seek treatment from the Employee Assistance Program or medical provider of their choice.

Over-the-Counter Drugs

If there is a question regarding an employee's ability to work safely and effectively while using prescription or nonprescription medications, clearance from a qualified physician will be required. The City will continue to retain the right to make final determination concerning an employee's fitness to perform work.

Definitions

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

Alcohol Testing- Testing by a certified breath-alcohol technician, using a Department of Transportation approved breath facility.

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Applicant- A person who has received a contingent offer of employment from the City of Albany. Such persons have yet to complete pre-employment background checks including drug screening that may lead to a formal offer of employment. This includes current employees applying for a transfer, promotion, or demotion.

Controlled Substances (referred to as “Drugs”) - Any controlled substance including those assigned by the U.S. Drug Enforcement Agency 21 U.S.C. 802 and includes all substances I through V, including Marijuana, both medical and recreational.

Employee- Full-time, part-time, temporary service workers or seasonal employees who have received a formal offer of employment from the City of Albany.

Employer Time- Refers to all working hours regardless of whether the employee is on City of Albany property, as well as any time the employee represents the City of Albany in any capacity.

Positive Drug Test- Test levels on both the initial test and the confirmatory test which are recognized as positive.

Reasonable Cause (or For Cause) Testing- Testing founded on an articulated belief, based on recorded specific facts and reasonable inference drawn from those facts, that an employee is impaired, under the influence of, or has used controlled substances.

Safety Sensitive Position- Those positions in which the employee has job responsibilities involving public safety and/or the safety of others, and where the immediacy of the threat posed by a potential drug- or alcohol-induced mistake or failure in the performance of specific job duties would invoke such a great risk to the health and safety of the employee, co-workers, the public or the community, that even a momentary lapse of attention, judgment or reaction time can have disastrous consequences.

References

21 U.S.C. 802, U.S. Department of Health and Human Services “Mandatory Guidelines for Federal Workplace Drug Testing Program”; Observed Behavior-Reasonable Cause Record Form

Review and Authorization

Supercedes: HR-SF-04-006	Created/Amended by/date: DS; 11/17//2016	Effective Date: 11/20/2016
HR Director:		City Manager:

Form or worksheet revision related to this document? No Yes

If yes, attach a copy of the revised form or worksheet.

1. Training required? No Yes



Substance Abuse Policy
Appendix A
List of Safety Sensitive Positions and Supervisors

- Aquatics Program Leader
- Environmental Programs Supervisor
- Environmental Services Technician
- Facilities Automation Analyst
- Facilities Automation Technician
- Facilities Maintenance & Control Manager
- Facilities Maintenance Electrician
- Facilities Mechanic
- Instructor (Aquatics)
- Lead Instructor (Aquatics)
- Lead Lifeguard
- Lifeguard
- Natural Resources Specialist
- Natural Treatment Systems Specialist
- Recreation Programs Manager (Aquatics)
- Treatment Facilities Maintenance Technician
- Treatment Facilities Operator
- Treatment Plant Supervisor
- Trip/Tour Driver (non-CDL)
- Wastewater Treatment Plant Lab Technician

or successor classifications