

COUNCIL POLICY

SUBJECT: DRUG FREE WORKPLACE POLICY

POLICY NO.: 300-02

EFFECTIVE DATE: January 9, 2006

BACKGROUND:

The safety and well being of each employee is invaluable to the City. Every employee of the City of Holtville is entitled to work in a safe and drug-free environment. The City of Holtville has set standards and regulations that require all employees to perform their duties at a responsible level to ensure that every employee is given the opportunity to reach their potential. The use of drugs or alcohol would inhibit these objectives.

I. THE CITY'S PURPOSE

The City of Holtville is committed to maintaining a workplace that is free of drugs and alcohol and to discouraging drug and alcohol abuse by its employees. The City has a vital interest in maintaining safe and efficient working conditions for its employees. Substance abuse is incompatible with health, safety, efficiency, and success at the City. Employees who are under the influence of alcohol or who have any illegal drugs in their system, or who abuse legal drugs while conducting or performing City business compromise the City's interests, endanger their own health and safety and the health and safety of others, and can cause a number of other work-related problems, including absenteeism and tardiness, substandard job performance, increased workloads for coworkers, behavior that disrupts other employees, delays in the completion of work, inferior quality in service and disruption of resident relations.

It is important for employees to understand that this Policy governs not only the abuse of alcohol and illegal drugs, but also the use and abuse of legal drugs in the workplace. Employees who find the need to use legal drugs, including prescription and over-the counter drugs, should consult with and must comply with those provisions set forth in this Policy that address such use.

To further its interest in avoiding accidents, to promote and maintain safe and efficient working conditions for its employees, to protect its business, property, equipment and operations, and to comply with all federal and

state requirements, the City has established this Policy concerning employee use of alcohol and drugs. As a condition of continued employment with the City, each employee must abide by this Policy.

II. DEFINITIONS

For purposes of this Policy:

- A. **Illegal Drugs Or Other Controlled Substances:** Illegal drugs or other controlled substances means any drug or substance that (i) is not legally obtainable; or (ii) is legally obtainable but has not been legally obtained; or (iii) has been legally obtained but is being sold or distributed unlawfully.
- B. **Legal Drugs:** Legal drugs means any drug, including prescription drugs and over-the-counter drugs, that has been legally obtained and that is not unlawfully sold or distributed.
- C. **Abuse Of Any Legal Drug:** Abuse of any legal drug means the use of any legal drug (i) for any purpose other than the purpose for which it was prescribed or manufactured; or (ii) in a quantity, frequency, or manner that is contrary to the instructions or recommendations of the prescribing physician or manufacturer.
- D. **Reasonable Suspicion:** Reasonable suspicion means a suspicion that is based on (i) specific personal observations such as an employee's manner, disposition, muscular movement, appearance, behavior, speech or breath odor; or (ii) information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable; or (iii) a suspicion that is based on other surrounding circumstances.
- E. **Possession:** Possession means that an employee has the substance on his or her person or otherwise under his or her control.
- F. **Safety-Sensitive Employees:** As defined by the Code of Federal Regulations (CFR), safety-sensitive employees include those who perform, or may be called upon to perform, the following safety-sensitive functions:
 - 1. Operating a revenue service vehicle, even when it is not in revenue service;
 - 2. Operating a non-revenue service vehicle when required to be operated by a Commercial Driver's License (CDL) holder;
 - 3. Controlling dispatch or movement of a revenue service vehicle;

4. Maintaining (including inspection, repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service; or
5. Carrying a firearm for security purposes.

Supervisors are considered safety-sensitive only if they perform, or may be called upon to perform, any of the above safety-sensitive functions.

Note: The City has analyzed actual job duties performed (or called upon to perform) of all of its employees and has determined that the job classifications listed in Appendix A are considered safety-sensitive for the purposes of this policy.

III. THE CITY OF HOLTVILLE'S CONSENT FOR USE OF LEGAL DRUGS

- A. Use of Legal Drugs: The City recognizes that it may be necessary for employees to use legal drugs from time to time. The City also recognizes that an employee who is using legal drugs might become impaired by the drug such that the employee's ability to adequately or safely perform is compromised. In order to accommodate employees who might be required to use legal drugs, and to help assure that no serious adverse consequences in the workplace result from such drug use, employees are required to obtain the City's consent and comply with certain disclosure and work-restriction requirements under the following circumstances.
- B. When Consent Is Required: Employees who know or should know that their use of legal drugs might endanger their own safety or the safety of another person, or might pose a risk of significant damage to the City's property, or might substantially interfere with their job performance or the efficient operation of the City's business, are obligated to report such drug use to the Personnel Director or the City Manager, and to obtain the City's consent to continue working. The City reserves the right to have either a City physician or the employee's own physician determine whether it is advisable for the employee to continue working while taking such drugs.
- C. Duty to Disclose: Employees who operate or who are responsible in any way for the operation, custody or care of the City's property, or for the safety of other employees or other persons, have a duty to disclose the nature of their job duties to any prescribing physician or pharmacist and/or to a City physician or pharmacist and to inquire of the physician(s) or pharmacist whether their use of the drugs prescribed might result in the dangers, risks or impairment that this Policy is intended to prevent.

- D. Restrictions on Work: The City reserves the right to restrict the work activities of any employee who is using legal drugs or prohibit any employee from working entirely while he or she is using legal drugs.
- E. Duty to Refrain from Working: Each employee using legal drugs has a duty to not report for work while impaired by the drug if such impairment might result in serious harm or damage or might interfere with his or her job performance. Accordingly, even if an employee has obtained the City's consent to continue working while taking legal drugs, the employee will not be authorized to work while impaired by the use of such drug if the employee knows or has reason to know that working while impaired might endanger the safety of the employee or some other person, pose a risk of significant damage to the City's property, or substantially interfere with the employee's job performance or the efficient operation of the City's business.

IV. PROHIBITED CONDUCT

- A. Scope: The prohibitions of this section apply whenever the interests of the City may be adversely affected, including any time the employee is:
 - 1. On City premises;
 - 2. Conducting or performing City business, regardless of location;
 - 3. Operating or responsible for the operation, custody, or care of City equipment or other property; or
 - 4. Responsible in any way for the safety of other individuals associated with City, including, but not limited to, co-employees, management, visitors, residents and vendors.
- B. Alcohol: The following acts are prohibited and subject an employee to discharge:
 - 1. The unauthorized use, possession, purchase, sale, manufacture, distribution, transportation or dispensation of alcohol; or
 - 2. Being under the influence of alcohol as defined by applicable state law.
- C. Illegal Drugs: The following acts are prohibited and subject an employee to discharge:

1. The use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of any illegal drug or other controlled substance; or
2. Having any illegal drug or other controlled substance in your system.

D. Legal Drugs: The following acts are prohibited and subject an employee to discharge:

1. The abuse of any legal drug; or
2. The purchase, sale, manufacture, distribution, transportation, dispensation, or possession of any legal prescription or over-the-counter drug in a manner inconsistent with law; or
3. Working while impaired by the use of a legal drug in violation of Section III above; or
4. Working without obtaining the required consent in violation of Section III, above; or
5. Failure to make proper disclosure in violation of Section III, above.

V. SUBSTANCE SCREENING

A. Job Applicants: Job applicants may be required to undergo drug and alcohol testing as a condition of employment with the City.

B. Employees: Current employees will be subject to testing if they:

1. Report to work or, while conducting or performing City business regardless of location, are suspected of being intoxicated or exhibiting abnormal behavior or performance difficulties associated with substance abuse;
2. Are involved in a work-related accident and exhibit indicators of substance abuse;
3. Are subject to federal or state regulatory requirements for random drug or alcohol testing; or
4. Are in safety-sensitive positions or other positions in which impaired performance could have an adverse effect on the health or safety of the employee, his or her co-employees, other individuals or the City.

C. Testing: The City may utilize each or all of the following testing methods:

1. Pre-employment testing;
2. Random testing for employees in safety-sensitive positions;
3. Reasonable suspicion testing;
4. Post-accident testing (where the employee exhibits indicators of substance abuse); and
5. Testing authorized or required by federal or state regulations, including Department of Transportation regulations.

VI. DISCIPLINARY ACTION

Violation of this Policy by any employee may result in discipline, up to and including discharge, depending on the circumstances and at the discretion of the City. At a minimum, disciplinary mandates for safety-sensitive positions, as required under Title 13 of the California Code of Regulations and Title 49 of the Code of Federal Regulations, will be followed for those individuals in safety-sensitive positions.

A. Effect of Criminal Conviction: An employee who is convicted under a criminal drug statute for a violation occurring in the workplace, while conducting or performing City business regardless of location, or during any City-related activity or event will be deemed to have violated this Policy.

B. Refusal to Test: Includes circumstances or behaviors such as:

1. Failure to appear at the collection site in the time allotted;
2. Leaving the collection site before the testing process is completed;
3. Failure to provide a urine, breath, or saliva specimen as required by CFR, Part 40;
4. Failure to permit the observation or monitoring of specimen collection when it is required;
5. Failure to provide a sufficient amount of urine or breath specimen without a valid medical explanation;
6. Failure or refusal to take a second test when required;
7. Failure to undergo a medical evaluation when required;
8. Failure to cooperate with any part of the testing process. (Example: refusal to sign the testing form when required);

9. Leaving the scene of an accident without just cause prior to submitting to a test; or,
10. If the Medical Review Officer (MRO) reports a verified adulterated or substituted test result.

Note: A refusal to test shall be treated as a positive test result for the purposes of administration of this Policy and any resulting disciplinary action.

11. First Violation: An employee who is not discharged for a first violation of this Policy will receive a final written warning. The City reserves the right to suspend the employee without pay for a period of up to five (5) business days.
12. Second Violation: A second violation of this Policy at any time will result in discharge.

VII. CRIMINAL CONVICTIONS

Employees are required by this Policy to notify the City of any conviction under a criminal drug statute for a violation occurring in the workplace, while conducting or performing City business regardless of location, or during any City-related activity or event, not later than five (5) days after any such conviction. When required by applicable law, the City will notify agencies under contract of any employee who has been convicted under a criminal drug statute for a violation occurring while conducting or performing City business, regardless of location.

VIII. UNREGULATED OR AUTHORIZED CONDUCT

- A. Customary Use of Over-the-Counter Drugs: Nothing in this Policy is intended to prohibit the customary and ordinary purchase, sale, use, possession, or dispensation of over-the-counter drugs, so long as such activity does not violate any law or result in an employee being impaired by the use of such drugs in violation of this Policy.
- B. Off-the-Job Conduct: Nothing in this Policy is intended to regulate off-the-job conduct, so long as the employee's off-the-job use of alcohol or legal drugs does not result in the employee being under the influence of or impaired by the use of alcohol or drugs in violation of this Policy.
- C. Use of Alcohol or Legal Drugs: The Personnel Department will maintain a list of circumstances in which the use or possession of certain legal drugs or alcohol is authorized (such as certain medicine or drugs maintained in company first-aid cabinets or alcoholic

beverages served during certain business meetings or social functions) and will communicate the authorization as appropriate. Changes to the authorization require the prior written approval of the City Manager. Except as otherwise provided in this Policy, no employee may assume that his or her possession, use, purchase, sale, manufacture, distribution, transportation, or dispensation of alcohol or drugs is authorized unless the employee has been notified in writing by the City Manager.

IX. QUALIFIED DISABLED EMPLOYEES

- A. Commitment to Employ Disabled Individuals: Nothing in this Policy is intended to diminish the City's commitment to employ qualified disabled individuals or to provide reasonable accommodation to such individuals consistent with all federal, state and local laws. As noted above, however, employees are required, under certain limited circumstances, to obtain the City's consent to continue working while using legal drugs.
- B. Reasonable Accommodation: If an employee's use of a legal drug is related to a disability and the employee voluntarily self-identifies as a disabled individual to the City in connection with an effort to determine whether it is advisable to continue working despite the use of the drug, and if it is determined that the employee should not continue to work in his or her regular job while using the legal drug, an effort will be made to reasonably accommodate that employee.

X. CONFIDENTIALITY

Disclosures made by employees to the Personnel Department or City Manager concerning their use of legal drugs will be treated confidentially and will not be revealed to managers or supervisors unless there is an important work-related reason to do so. Disclosures made by employees to the Personnel Department or City Manager concerning their participation in any drug or alcohol rehabilitation program will be treated confidentially.

Managers and supervisors should restrict communications concerning possible violations of this Policy to persons who have an important work-related reason to know. In addition, managers and supervisors should not disclose the fact of an employee's participation in any drug or alcohol counseling or rehabilitation program.

XI. COUNSELING

Employees who suspect they may have alcohol or drug problems, even in the early stages, are encouraged to voluntarily seek diagnosis and to follow through with the treatment as prescribed by qualified professionals. Employees who wish to voluntarily enter and participate in an approved alcohol or drug rehabilitation program are encouraged to contact the Personnel Department or City Manager, who will determine whether the City can accommodate the employee by providing unpaid leave for the time necessary to complete participation in the program.

XII. REFERENCES

1. California Code Of Regulations (CCR), Title 13
2. California Government Code Section 8350, "Drug-Free Workplace Act of 1988"
3. Code of Federal Regulations (CFR), Title 49 Parts 40, 382, and 391

APPENDIX A

SAFETY-SENSITIVE POSITIONS

Safety-Sensitive Job Classifications for the City of Holtville:

Animal Control Officer
Executive Staff Assistant
Fire Captain
Fire Chief
Fire Lieutenant
Fire Prevention Officer
Firefighter
Heavy Equipment Operator
Lead Mechanic
Lead Public Safety Dispatcher
Maintenance Worker I
Maintenance Worker II
Maintenance Worker III
Paid Per Call Firefighters
Park Maintenance Crew Leader
Park Maintenance Worker I
Park Maintenance Worker II
Park Maintenance Worker III
Police Chief
Police Officer
Police Sergeant
Public Safety Dispatcher
Public Works Compliance Coordinator
Public Works Field Coordinator
Public Works Manager
Public Works Supervisor
Reserve Police Officers
Street Sweeper
Underground Utilities Supervisor
Waste Water Treatment Plant Operator I
Waste Water Treatment Plant Operator II
Waste Water Treatment Plant Operator III
Water Treatment Plant Operator I
Water Treatment Plant Operator II
Water Treatment Plant Operator III
Water/Waste Water Supervisor

**EMPLOYEE ACKNOWLEDGMENT OF
RECEIPT OF DRUG FREE WORKPLACE POLICY**

This will acknowledge that I have received my copy of the City of HOLTVILLE Drug Free Workplace Policy and that I have read the Policy and understand my rights and obligations under the Policy.

I understand that this Policy represents only current policies, procedures, rights and obligations and does not create a contract of employment. Regardless of what the Policy states or provides, the City retains the right to add, change or delete provisions of the Policy and all other working terms and conditions without obtaining another person's consent or agreement.

My signature below further signifies that I have read this Policy and that I accept and will abide by all of its provisions.

PRINT FULL NAME

SIGNED

DATE
