

4 - DRUG POLICY

Following is the city of Waynesboro's policy on drugs and alcohol, as outlined in Ordinance Number 1994-4, quoted verbatim:

ORDINANCE NUMBER 1994-4 AN ORDINANCE CODIFYING THE CITY OF WAYNESBORO DRUG/ALCOHOL POLICY

BE IT ORDAINED, by the Council of the City of Waynesboro, Virginia, that the following Drug/Alcohol Policy be adopted by the City:

1. PURPOSE

The purpose of the city of Waynesboro's Drug/Alcohol Policy is to maintain a safe, healthful, and productive work environment for all employees and or public safety department volunteers. To accomplish this, the city will act to eliminate any substance use by employees which increases the potential for accidents, absenteeism, substandard performance, poor employee morale, or tends to undermine public confidence in the city's workforce.

Employees experiencing problems with alcohol or other drugs are urged to voluntarily seek assistance to resolve such problems before they become serious enough to require management referral or disciplinary action. Successful treatment will be viewed in a positive manner, but will not prevent normal disciplinary action for any violation/s which may have already occurred, nor will it relieve the employee of the responsibility to perform their assigned duties in a safe and efficient manner.

2. POLICY

A. PROHIBITED SUBSTANCES:

Alcohol, or any substance which is a designer drug prohibited in Section 54.1-3456 of the Code of Virginia, or which is included in Schedules 1 through 6 in Sections 54.1-3445 to 54.1-3455 of the Code of Virginia, or any other substance which could impair an employee's ability to safely and effectively perform the functions of a particular job, may not be used or possessed on city property or during work.

B. PROHIBITED BEHAVIOR:

Employees shall not: report to work while under the influence of prohibited substances; have the odor of prohibited substances on or about their breath or person; have their ability to work impaired as a result of the use of prohibited substances; or personally use or possess, or sell or provide to any person, any prohibited substances while on or off duty.

C. LEGAL MEDICATIONS:

Employee use of valid, over-the-counter or medically prescribed medications or drugs is not by itself a violation of this policy. Because these substances may interfere with the safe and effective performance of duties or the operation of city vehicles or equipment, permission to work from a qualified physician may be required.

D. SUBJECT TO SEARCH:

The city reserves the right to search for prohibited substances, without employee consent, all areas and property in which the city maintains full or joint control with the employee. All city owned or rented vehicles are subject to search by appropriate supervisory personnel. Search warrants may be obtained should it become necessary to search areas under the full control of an employee.

E. PENALTIES:

Violations of the policy may result in a refusal to offer employment or may result in discipline, transfer, demotion, suspension, or termination for volunteers or employees. Refusal to immediately submit to a urine test when requested by management in accordance with this policy will constitute insubordination, which alone will form a basis for discipline.

F. IMMEDIATE SUSPENSION:

Employees reasonably believed to be using, or to have their ability to work impaired by, or to be under the influence of, prohibited substances, shall be prevented from engaging in further work. Supervisors may effect an immediate suspension with pay of an employee's normal duties during the course of an investigation under this policy. The employee may be directed to perform other duties or may be directed to remain at home during the time he/she is being paid.

G. PRE-EMPLOYMENT SCREENING

All persons offered conditional employment or offered a volunteer position will be required to submit to urinalysis at the city's direction and expense to determine if prohibited substances are present. Any person who tests positive for prohibited substances will not be allowed to reapply for city employment or a volunteer position for a period of 12 months.

3. PROCEDURE

DEFINITIONS

A. **SUBSTANCE USE OR POSSESSION:**

The application, ingestion, injection, consumption, inhalation, or possession of prohibited substances.

B. **EMPLOYEE:**

All personnel employed either full-or part-time by the city, to include such non-city employees as volunteer firefighters and reserve police, but excluding contract and consulting personnel.

C. **WORK:**

The period of time when an employee is being paid to work, or unpaid breaks and lunch periods on city property, or at any time while operating any city vehicle or equipment, or at any time after notification of being subject to call.

D. **REASONABLE SUSPICION:**

An apparent state of facts and/or circumstances found to exist upon investigation by a responsible city representative, which could induce a reasonably intelligent and prudent person to believe that the employee was using, possessing, selling, or providing prohibited substances, or was under the influence of prohibited substances, or that the employee's ability to perform the functions of the job is impaired, or that the employee's ability to perform his/her job safely is reduced.

E. **URINALYSIS:**

A test designed to detect prohibited substances and administered under approved conditions and procedures. An employee will be required to submit to a urine test whenever reasonable suspicion of use is present.

F. **PRELIMINARY BREATH TEST (PBT)**

An employee suspected of consuming, or being under the influence of alcohol will be required to submit to a PBT given by a qualified law enforcement officer.

EMPLOYEE RESPONSIBILITIES

Full or part-time employees or volunteers must:

- A. not report to work while his/her ability to perform job duties is impaired due to the use of prohibited substances;
- B. not report to work while under the influence of prohibited substances; or have the odor of prohibited substances on or about his/her breath or person;
- C. not possess, sell, or provide prohibited substances to any person while at work;
- D. not operate city vehicles or equipment at any time while under the influence of, prohibited substances is in, on, or about his/her breath or person;
- E. submit immediately to a reasonable request for a urinalysis;
- F. not inhale, consume, or otherwise, ingest or inject any prohibited substance under this policy after being requested to submit to a urinalysis, and before the taking of such test.
- G. notify his/her supervisor before beginning work when taking any legal medications or drugs, whether prescription or non-prescription, which may interfere with the safe and effective performance of duties or the operation of city vehicles or equipment.
- H. provide within 24 hours of the request a current valid prescription for any drug or medication identified when a urinalysis is positive for a prohibited substance; the prescription must be in the employee's name and dated prior to the time of the test.
- I. Alcohol violations will be governed by the general policy.

SUPERVISORY RESPONSIBILITIES

A. Supervisors are responsible for consistent enforcement of this policy. Any supervisor who knowingly permits a violation of this policy by employees under his/her direct supervision shall be subject to disciplinary action.

B. Supervisors may request that an employee submit to a urinalysis if a reasonable suspicion indicates that the employee is using or is under the influence of prohibited substances. For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- Slurred or slow speech
- Odor of alcohol or drugs on breath
- Inability to walk in a straight line
- An accident involving city property
- A physical altercation
- A verbal altercation
- Behavior which is so unusual that it warrants summoning a supervisor or anyone else with authority
- Information obtained from a reliable person with personal knowledge
- Observation of actions and behaviors that indicate a violation of this policy may be occurring

The above list is not exclusive. Other situations or observations, alone or in combination with these, may constitute reasonable suspicion.

C. Any supervisor requesting an employee to submit to a urinalysis shall—

--document in writing the facts constituting reasonable suspicion that the employee is using or is under the influence of prohibited substances;

--communicate these facts verbally to the employee (confidential informants will not be revealed);

--transport the employee to the testing facility;

--not physically search employees;

--notify the Police Department when they have a reasonable suspicion to believe that an employee may have illegal substances in his/her possession; and

--not confiscate, without consent, prescription drugs or medications from an employee who has a valid prescription for them.

SUPERVISORY RESPONSIBILITIES (cont'd)

D. An employee failing to consent to a drug or alcohol screening, or both, is considered an act of insubordination and will be subject to disciplinary action, which may include termination.

TESTING FOR PROHIBITED SUBSTANCES

The employee will be transported by their supervisor to a testing facility designated by the City. Employee, if requested to do so by clinical/lab technician, shall sign an authorization for urinalysis. A sample of the employee's urine will be collected by the clinical technician/lab technician in accordance with medically and legally accepted practices. The supervisor will remain with the employee except during the actual collection process. The employee must not be allowed to eat or drink until the collection process is completed.

Urine specimen will be collected in a secure and clinical setting. The collection site will provide a reasonable amount of privacy. The testing facility will ensure that the urine sample cannot be subjected to any foreign substance which may taint or alter the specimen. The temperature of the specimen will be taken immediately upon receipt to ensure "freshness". Test facility clinical/lab technicians will maintain a "chain of custody" for the specimen.

Urine samples will be tested for the presence of prohibited substances. Urine samples which produce a positive result for prohibited substances will be verified by repeat testing. The confirmation will be conducted using the Gas Chromatography Mass Spectrometry Test.

INDEPENDENT TESTING BY EMPLOYEE

Every employee requested to submit to a urinalysis may elect to have a urine sample collected and tested independently. Coordination with the physician, the actual collect, and the expense of this sample will be the responsibility of the employee. Collection of an independent sample must be contemporaneous with the collection of the sample for the city's test. Results of the independent test may be considered as evidence in any disciplinary proceeding if the collection and testing of the independent sample follows the guidelines specified for the city sample.

RESULTS OF URINALYSIS

1. While awaiting the results of the urinalysis, the employee will be administratively suspended, with pay, from normal work duties.
2. Upon receipt of a negative urinalysis, the employee will be notified and shall immediately return to normal work duties.
3. If the urinalysis is positive for prohibited substances, the employee will remain administratively suspended, with pay, until formal disciplinary action can be taken.
4. Employees returning to work after disciplinary action will be required to submit to a urinalysis between 30 and 45 days after the return to work.

DISCIPLINARY ACTION

If the employee is determined to have possessed prohibited substances, or if a urinalysis is positive for prohibited substances, the following shall apply:

- A. Termination on the *First Offense* for all employees that are still in a probationary status.

For all non-probationary classified personnel:

- B. *First Offense*: Formal referral to a recognized Substance Abuse Assistance/Counseling Facility for assistance in determining the scope and cause of the use or abuse problem; suspension without pay for 15 days.
- C. *Second Offense*: Termination

CONFIDENTIALITY

Laboratory reports or test results are confidential and shall not be disclosed to anyone except city management personnel on a need-to-know basis and to the tested employee upon request. Disclosures, without the employee's consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; (4) the information is needed by medical personnel for the diagnosis or treatment of an employee who is unable to authorize disclosure.

SPECIAL REQUIREMENTS

RANDOM DRUG TESTING FOR:

PUBLIC SAFETY PERSONNEL, DEPARTMENT DIRECTORS, SUPERVISORS, ALL CITY VEHICLE/EQUIPMENT OPERATORS, AND EMPLOYEES IN SAFETY SENSITIVE POSITIONS

REASON FOR ADDITIONAL REQUIREMENTS

The Public Safety Departments and employees that fall in the categories listed above, have a legal responsibility and management obligation to ensure a safe work environment, as well as paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to perform their assigned duties. A requirement for employment or service must be an employee or volunteer who is free from prohibited substance dependence, use, or abuse.

Liability could be established against both the department and the employee or volunteer if management failed to address and ensure that both can perform their duties without endangering themselves or the public. There is sufficient evidence to conclude that use, dependence upon, or abuse of these prohibited substances seriously impairs employee's performance and general physical and mental health. In addition, the illegal possession or use of Schedule 1 through 6 drugs and narcotics by public safety employees and those in specified positions is unacceptable.

ADDITIONAL REQUIREMENTS

A. Police officers will be allowed to possess prohibited substances during work if it is obtained through proper criminal investigation procedures. Alcohol may be consumed by an undercover officer in special situations if approved by a supervisor.

B. Because the probationary period of public safety employees is an extension of the application process, probationary employees may be asked to submit to no more than three unannounced drug tests, unsupported by reasonable suspicion.

ADDITIONAL REQUIREMENTS (cont'd)

C. All employees of the Police Department who are assigned or attached to the Investigations Division, and whose main responsibility is the enforcement of drug laws, may be required to submit to unannounced drug tests at any time.

D. The confirmed finding of an illegal drug or controlled substance in the urinalysis of an employee of the Public Safety Departments, Department Directors, Supervisors, All Vehicle Operators, and those in Safety Sensitive positions, unless the substance is prescribed by a medical doctor for the employee, will result in immediate suspension of the employee pending a formal hearing of the matter.

E. Because of the threat to public safety, the damage to the public trust and integrity of the organization, the possibility of corruption, the inability to present credible testimony, the exposure to civil liability, and the fact that possession of controlled substances is illegal, any employee in any of these positions determined by a formal hearing to have produced a positive test for illegal drugs will be terminated.