City of Winder Personnel Policy Manual
Title: Alcohol and Drug
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Policy: 090

Mayor

City Administrator

90.10 Purpose

The City focus is on the prevention and treatment of substance and drug dependency among its employees. Any employee who feels that they have developed an addiction or dependence is encouraged to seek assistance prior to being selected for any of the designated drug or alcohol test whether random or post-accident. Consistent with the intent of this policy the City has established guidelines regarding drugs and alcohol in the work place, and establishes and maintains a work environment that is free from drugs and alcohol that impair one's abilities to perform job duties assigned.

90.11 Drug Free Workplace

The City of Winder is committed to protecting the safety, health, and well-being of all employees and other individuals in our workplace. The City of Winder also strives to maintain a workforce free from the influences of illegal drugs and substance abuse, recognizing that alcohol abuse and drug use pose a significant threat to our ability to serve the public. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment. It is, therefore, a violation of City policy for any employee to possess, sell, trade, or offer for sale illegal drugs or otherwise engage in the use of illegal drugs, intoxicants, or alcohol on the job. Furthermore, the City encourages employees to voluntarily seek help with drug and substance abuse problems before it affects work performance.

90.12 Definitions

A. **Applicant** means a person who has applied for a position with the City and has been offered employment conditioned upon successfully passing a drug test, and may begin work pending the results of the drug test and other requirements.

B. **Alcohol** means any beverage or liquid containing more than one-half of one percent of alcohol by volume alone, or when diluted.

C. The terms "**drugs**" and "**controlled substances**" have the same meaning according to this policy. Both terms include marijuana (THC), cocaine, opiates, barbiturates, benzodiazepine, phencyclidine (PCP) and amphetamines (including methamphetamines) or any synthetic drug designed to mimic the pharmacological effects of the original drug, while intending to avoid classification as illegal and/or detection in standard drug tests, or the use/possession is regulated by Federal Law.

D. **Illegal drugs** mean any controlled substance, medication, or other chemical substance that (1) is not legally obtainable; or (2) is legally obtainable, but is not being used legally, or is not being used for the purpose(s) for which it was prescribed or intended by the manufacturer. Thus, "illegal drugs" may include over-the-counter medications, if they are not being used for the purpose(s) for which they were intended by the manufacturer or used in a greater dosage/amount.

E. **Prescription drugs** means prescribed or over-the-counter drugs that are legally obtained and used for the purpose(s) for which they were intended by the manufacturer.

F. **Safety-Sensitive Positions** - Positions of employment with the City where a lapse of judgment or impaired physical/mental ability in performing any essential job function, could reasonably result in a significant threat of harm to the employee, co-workers, or the public. Safety-sensitive positions include, but are not limited to, those which, as a part of the essential job functions:

1. Require the performance of law enforcement duties as a POST-certified law enforcement officer or involve possession of a firearm.
2. Require or involve providing emergency medical, rescue, or fire suppression services.
3. Require or involve maintenance or operation of a motor vehicle, motorized equipment, or heavy machinery/equipment.
4. Require or involve performing duties which directly affect public health or safety.
5. Are specified as an employee that are covered under the Anti-Drug and Alcohol Plan for natural gas pipeline operators; or transport hazardous materials/chemicals.

G. **Secure City Data** means employee or citizen's social security numbers, employee or citizen's banking/financial information, network/administrative passwords, or criminal records.

90.13 Responsibility and Prohibited Activity

A. It is the responsibility of the employee to report to work unimpaired and to cooperate with the City in its efforts to enforce this policy. Employees are also expected to self-report to their supervisor or a City representative regarding possible driving impairment that is related to prescription drugs by their doctor to ensure their own safety as well as the safety of co-workers and the public.

B. It is the responsibility of all employees that directly observe the use of a controlled substance, illegal drugs or alcohol by a co-worker (while on-duty) to report this behavior to their direct supervisor, Department Head or the Human Resources Department immediately.

C. It is the responsibility of all supervisors to participate in a drug and/or alcohol awareness training program.

D. Employees are prohibited from possessing or using alcohol, controlled substances, or illegal drugs in the workplace. The City also prohibits the manufacturing and unauthorized distribution of drugs and alcohol on City property or while on-duty.

E. Employees shall refrain from using or purchasing alcohol while wearing a uniform issued by the City, including while off-duty.

F. Prescription drugs must be kept in its original container if such medication is taken during working hours or on City property.

90.14 **Duty to Advise**

A. An employee that is not scheduled to work who is called to duty and is impaired (whether or not legally prescribed) must advise his supervisor before reporting to work. *Impairment shall include sleep deprivation.*

B. The proper use of medication prescribed by a physician is not prohibited; however, the City does prohibit misuse of prescribed medications. Therefore, any employee who is taking any prescription drug which has known side effects that notes the drug may impair safety, performance, or any motor functions shall advise his supervisor before reporting to work under the influence of such prescription drug.

90.15 **Notification of Arrests and Convictions**

A. Any employee in a safety sensitive position or holding a CDL who is arrested on a criminal drug violation (to include a DUI) must notify their Department Head or the City Administrator prior to returning to work. It shall be the responsibility of the Department Head to notify the Human Resources Department once information is obtained.

B. All employees not classified in a safety sensitive position or holding a CDL shall report any criminal drug violation convictions to their Department Head within five (5) days of the conviction.

C. Employees may be placed on administrative leave or in a restricted duty position until the arrest or conviction can be properly reviewed.

1. Available information shall be reviewed by the employee's direct Department Head and the Human Resources Department.
2. The Mayor and City Administrator will conduct the review of available information regarding any arrest or convictions of a Department Head.
3. The Mayor and City Attorney will conduct the review of available information regarding any arrest or convictions of the City Administrator.

90.16 Pre-Employment and Employee Transfers/Promotion Testing

A. Applicants who have been made a conditional offer of employment shall successfully pass a controlled substance test unless the position is deemed exempt from testing. Compliance with this policy is a condition of employment for any selected applicant. Failure to sign any authorization and consent form as a condition of employment is considered a violation of this policy and the job offer will be automatically withdrawn.

1. No applicant shall be permitted to report for duty until the results of the drug test are obtained.
2. Any selected applicant whose test results are verified positive for controlled drugs will have their job offer automatically withdrawn and will not be hired.
3. Any selected applicant who tests positive for controlled drugs during the background and testing phase will not be considered for employment for twenty-four (24) months from date of testing.

B. Employees transferring status from part-time to full-time shall be required to take a controlled substance test if their prior pre-employment test was conducted more than ninety (90) calendar days from their anticipated start day as a full-time employee.

C. Part-time and intern employees under the age of eighteen (18) are exempt from pre-employment-controlled substance testing; however, the City shall reserve the right to conduct a controlled substance test on employees once they reach the age of eighteen (18) or parental consent is obtained.

D. All employees shall pass a controlled substance test before being placed into a safety sensitive position (i.e. promotion, transfer, etc.). An employee promoted from one safety sensitive position to another is subject to testing as part of the promotional process.

90.17 Reasonable Suspicion

A. Whenever a Department Head or supervisor has reasonable suspicion that an employee on duty or scheduled for duty is under the influence of alcohol or drugs that will impair their ability to perform their essential duties, the employee will be removed from normal duties to include operating any vehicles, heavy equipment or public interaction until such time as a reasonable determination can be made.

B. Reasonable suspicion will be based on:

1. The direct observation of drug or alcohol use or possession.
2. Information provided by reliable and credible sources or information which is independently corroborated.
3. Physical symptoms of being under the influence of drugs or alcohol such as smell of alcohol, poor coordination or reflexes, significant confusion, disorientation, glassy or blood shot eyes, slurred speech, or other

indicators. The observations may include indications of the chronic and withdrawal effects of potential controlled substances.

4. The employee left the accident scene or attempted to leave the accident scene without authorization to do so, or failed to report the accident to the appropriate individual, or otherwise attempted to keep appropriate persons from learning about the accident or the extent of the accident.
5. The employee displayed signs of erratic behavior or otherwise engaged in demonstrably unsafe behavior without a reasonable explanation.

C. If signs for reasonable suspicion exists, the employee will be referred for a second opinion from an employee or 3rd party trained to make a determination whether signs of reasonable suspicion exist.

1. Once it is determined that reasonable suspicion exists, the employee will be required to submit to a drug and/or alcohol test. The employee shall be placed on administrative leave (with no reduction in pay or benefits) until the test results are available and a preliminary administrative review has been conducted by the Human Resources Department.
2. Once reasonable suspicion is determined, the supervisor in the presence of a certified police officer may examine the employee's workspace. An employee has no right or expectation of privacy with regard to City vehicles, City property and City equipment (office, lockers, desks, etc.).

D. The supervisor who requests or initiates the reasonable suspicion testing shall not perform the actual drug or alcohol test on the employee when the test is to be performed on-site. When the testing is to be performed off-site it is recommended that a different supervisor escort the employee to the testing facility.

E. If at any point in this process the employee becomes combative, the Police Department will be contacted to assist.

F. Only the Chief of Police, Mayor or City Council Member shall initiate reasonable suspicion towards the City Administrator. No second opinion shall be required.

90.18 **Random Testing**

A. Employees may be selected at random for alcohol and drug testing at any interval determined by the City Administrator, Human Resources Department, or through a third (3rd) party contract for those employees who:

1. Work in a safety sensitive position.
2. Hold a CDL.
3. Have access to secure City data or handle money.

B. Each employee will remain available for testing even after being selected so that every employee will have an equal chance of being tested each time selections are made. Therefore, it is possible that an employee who is randomly selected for testing may be randomly selected multiple times during the same year.

C. If an employee is on any type of leave or unavailable when selected, the employee will be required to submit to testing upon return to duty.

D. Testing arrangements will be made through the Human Resources Department. The Human Resources Department or contracted 3rd party will notify the Department Head when an employee has been selected through the random process. The supervisor is not to inform the employee that has been chosen for the test until immediately prior to the time the employee has been provided notice.

E. City employees are allowed to continue working pending the results of the random test. If the testing facility, which may include on-site testing, notifies the Human Resources Department that the employee has produced a confirmed positive sample, Human Resources will contact the appropriate Department Head or City Administrator with the results.

90.19 Post-Accident Testing

All employees are subject to an alcohol and drug test after any type of accident occurring while on-duty or while using City equipment that results in lost time, injury, property damage or as noted in City policy.

Refer to Post-Accident Policy # 92

90.20 Discretionary Testing of Employee

A. All employees who are subject to a routine physical ability/agility test or fitness for duty medical examinations may be required to take a drug and/or alcohol test prior to taking the department required fitness test or medical exam.

B. The City may require drug and/or alcohol tests for:

1. Those who are under review for excessive use of force.
2. Those whose discharge of a firearm results in bodily injury, property damage, or violation of department general orders.

90.21 Employee Assistance Program (EAP)

A. The City of Winder recognizes the importance of providing employees with the opportunity of participating in appropriate employee assistance programs. These programs are designed to provide counseling, rehabilitation, and therapy to employees who, voluntarily and on their own, recognize that they may have a substance abuse problem and choose to obtain assistance. The City's EAP services are available to all City employees and their family members. City EAP services are confidential in accordance with applicable state and federal laws.

B. Any employee who informs their supervisor that he may have a drug or alcohol problem shall be referred to EAP.

C. Supervisors that have received training are encouraged to make supervisory referrals for those employees that have expressed concerns or show behavior affecting job performance. The Human Resources Department will conduct regular training sessions for supervisors in order to increase their knowledge of how to refer employees to EAP.

D. Employees shall remain free of alcohol and controlled substances while undergoing rehabilitation or counseling. EAP participation does not exempt employees from required testing or the ability to perform essential job duties.

E. Employees undergoing voluntary treatment for drug and/or alcohol shall be permitted to use leave concurrent with the Family and Medical Leave Act.

F. Failing to accept referral to and/or following the recommendations of the Employee Assistance Program, or other medical treatment approved by the Human Resources Department after a positive drug and/or alcohol test, shall result in termination of employment.

90.22 **Exceptions Regarding Alcohol**

A. Alcohol is permitted on City premises that are authorized for the purpose of holding an event with alcohol or hold the proper licenses for the sale of alcohol. This provision does not exempt and employee from consuming alcohol while on-duty.

B. When the potential for consuming alcohol is part of an after-hours work-related function and the employee is not considered on the clock, on-call or performing job related duties. In such instances, the employee shall exercise sound judgment concerning the amount of alcohol consumed and is prohibited from driving a City vehicle or performing any job-related functions while alcohol consumption affects are present.

C. In order for an exception to be granted regarding an after-hours work-related function, the employee shall not wear any issued City uniforms, have a badge visible to the public, or wear any official logos while consuming alcohol.

D. Consumption at any after-hours work related event by employees of legal age is completely voluntary.

90.23 **Substance Violation**

A. Any violation of this policy will result in discipline up to and including termination.

B. Employees found to be in violation of this policy may be denied workers' compensation benefits as provided by law.

C. Any employee found under the influence of alcohol or controlled substances while driving a City vehicle/heavy equipment or employed in a Safety-

Sensitive Position shall be terminated in accordance with the City's disciplinary policy.