

Chapter XVII - City of Roswell Drug and Alcohol Free Workplace Policy

17.0 Overview and Statement of Policy

The City of Roswell is committed to providing a safe work environment and fostering the wellbeing and health of its employees. That commitment is jeopardized when any City of Roswell employee illegally uses drugs on or off the job, comes to work under their influence, possesses, distributes or sells drugs in the workplace, or abuses alcohol on the job. Employee drug and alcohol abuse creates a serious risk of physical harm to employees, to persons who rely on the City of Roswell's services and to the public at large. Therefore, City of Roswell has established the following policy:

The City of Roswell does not and will not tolerate any employee's possession, sale distribution or consumption of alcoholic beverages or illegal drugs or any related paraphernalia, or the abuse of prescription medications, while on City property or while conducting City business at any time. Further, the City of Roswell does not and will not tolerate any employee being under the influence of alcohol or being impaired due to any illegal drug while on City property or while conducting City business at any time.

The intent of this policy is:

- To provide clear guidelines for handling incidents of employee's use of alcohol, drugs or other controlled substances that may affect job performance and to make every effort to institute and maintain a drug-free workplace.
- To ensure that employees conform to all state and federal regulations regarding alcohol, drugs or other controlled substances.

Essential components of this policy are as follows:

- It is a violation of the City's policy for any employee to use, possess, sell, trade, offer for sale, or offer to buy illegal drugs or otherwise engage in the illegal use of drugs on or off the job.
- It is a violation of the City's 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 the City's policy for any employee to report to work under the influence of, or impaired by alcohol.
- It is a violation of the City's 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. (Nothing in this policy precludes the appropriate use of legally prescribed medications.)
- Violations of this policy are subject to disciplinary action up to and including termination.

17.1 Prohibited Conduct

The following violations of the Drug and Alcohol Free Workplace Policy constitute gross misconduct and shall result in severe disciplinary action up to and including termination:

1. Unauthorized use, possession, sale, or solicitation for the purpose of purchase/sale of drugs or alcohol on City property or while the employee is on duty.

2. Hindering, obstructing or refusing to cooperate or participate in any investigation involving suspected violations of this policy. This includes, but is not limited to, providing false, misleading or incomplete information in response to any inquiry from a supervisor related to a suspected violation of this policy. It also includes refusing to undergo a required drug or alcohol test(s).
3. Hindering, delaying or obstructing a drug or alcohol test(s), including but not limited to, tampering with a sample or interfering in any way with the chain of custody.
4. Reporting to work or engaging in any work activity whatsoever on behalf of the City in a condition which could pose a threat of harm to the employee or any other person, or reporting to or engaging in any work on behalf of the City in a condition which could impair the ability to satisfactorily perform any essential function of the job, due to the use of drugs or misuse of alcohol. The presence of any detectable amount of drugs, or the presence of alcohol in a concentration of 0.04 breath alcohol content (BAC) or greater, creates a presumption that the employee is in violation of the City of Roswell Drug & Alcohol Free Workplace Policy. No CDL or Safety Sensitive employee shall perform their safety-sensitive job functions within four (4) hours after using alcohol.
5. Abusing or misusing prescription drugs or over-the-counter medication when such conduct could reasonably interfere with the safe or satisfactory performance of any essential job function. This includes, but is not limited to, the use, possession, sale or solicitation for the purpose of purchase or sale any prescription medication for which the employee lacks a valid prescription.

17.2 Prohibited Substances

1. “Drugs” refers to marijuana, cocaine, amphetamines, methamphetamines, opiates (including heroin and codeine), phencyclidine, and all other “controlled substances” as defined in Title 16 of the Official Code of Georgia.
2. “Alcohol” includes any beverage or substance containing alcohol manufactured for the primary purpose of personal consumption, or any substance containing alcohol that one substitutes for such.
3. “Prescription drugs” means any substance, which is attainable only by lawful prescription from a physician.
4. “Over-the-counter medication” includes any substance which does not require a prescription but which has the capacity to affect a person physically, mentally, or emotionally or which could otherwise affect a person’s ability to safely perform any essential job function.

17.3 When Testing is Required

- 1. Pre-Employment:** Applicants for any City position, including positions requiring a commercial driver’s license (CDL) and/or safety sensitive positions, will be tested after a conditional offer of employment has been extended. An applicant who refuses a drug test(s) or who tests positive, shall not be extended a final offer of employment.
- 2. Random Testing:** CDL positions and safety sensitive positions shall be subject to random testing as follows:

- a) Tests will be ordered on a random, unannounced basis from the pool of identified CDL and safety sensitive employees.
- b) A computer-based random number generator will be used to select employees, thereby allowing each employee an equal chance of being tested each month.
- c) At least 50% of the employees in the CDL/DOT random testing pool will be selected for substance abuse testing, and at least 25% of employees for breath alcohol testing. Actual percentages will be as required by the Federal Highway Administration (FHWA).
- d) At least 10% and up to 50% of other City approved safety sensitive employees will be selected and tested for drugs and alcohol each year.
- e) An employee's name will remain in the pool 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 any CDL or safety sensitive employee, who is randomly selected for testing, may be randomly selected again during the same year.

3. After-Care Testing: Persons in safety sensitive positions returning to work from an approved treatment program for drug or alcohol abuse may be subject to unannounced testing at the discretion of the Director of Human Resources for a period of six (6) months following the employee's return to work.

4. Return to Duty Testing: CDL and safety sensitive employees who are absent from work on any leave for more than thirty (30) days shall be tested for drugs immediately prior to returning to work and before performing any job duties.

5. Position Testing: Employees who are transferred, promoted or demoted into a CDL or safety sensitive position from a non-CDL/non-safety sensitive position will be tested for drugs before performing any job duties in the new position.

6. Reasonable Suspicion: All employees will be subject to testing when there is reasonable suspicion that the employee has used drugs or misused alcohol in violation of this policy.

Grounds for reasonable suspicion testing shall include, but not be limited to:

- a) Personal observation of the employee's job performance, appearance, behavior, speech or odor creating a reasonable suspicion that the employee has used drugs or alcohol in violation of this policy; or
- b) Personal observation of the employee's job performance, appearance, behavior, speech or odor which causes reasonable suspicion that the employee (i) is impaired by drugs or alcohol, (ii) has used drugs or alcohol while on duty, (iii) or poses a threat to the safety of himself or others due to the use of drugs or misuse of alcohol in violation of this policy.
- c) Specific and objective facts indicating that an employee's drug or alcohol use may have caused or been a contributing factor to an on-duty motor vehicle accident. An alcohol test(s) should be completed within two (2) hours of the accident and a drug test(s) within thirty-two (32) hours of the accident. The following facts, if present, may independently or collectively, depending upon the circumstances, give rise to reasonable suspicion:

- (1) the appearance, behavior, speech or odor of the employee immediately prior to or after the accident;
 - (2) the employee left the scene or attempted to leave the accident scene without legal authority or permission to do so;
 - (3) the employee acted contrary to a safety rule, established safety practice or otherwise engaged in demonstrably unsafe behavior for which there is no reasonable explanation;
 - (4) the employee was arrested or received a traffic citation;
 - (5) the employee or any person received medical attention as a result of the accident;
 - (6) the employee has been involved, as a contributing factor, in a pattern of repetitive on-duty motor vehicle accidents whether or not they involved actual or potential injury.
- d) Specific and objective facts indicating that an employee's drug or alcohol use may have caused or been a contributing factor to an on-duty accident. An alcohol test(s) should be completed within two (2) hours of the accident and a drug test(s) within thirty-two (32) hours of the accident. The following facts, if present, may independently or collectively, depending on the circumstances, give rise to reasonable suspicion:
- (1) The appearance, behavior, speech or odor of the employee immediately prior to or after the accident;
 - (2) The employee left the accident scene or attempted to leave the accident scene without legal authority or 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;
 - (3) The employee acted contrary to a safety rule, established safety practices or otherwise engaged in demonstrably unsafe behavior without a reasonable explanation;
 - (4) The employee or any other person received medical attention as a result of the accident;
 - (5) The employee has been involved as a contributing factor in a pattern of on-duty accidents whether or not they involved actual or potential injury.
- e) Drugs, drug paraphernalia, alcohol or containers indicating the presence of drugs or alcohol are observed or discovered in a location in which the employee had primary control or access, including but not limited to, desks, lockers, equipment, machines or vehicles. The employee must have accessed the location within eight (8) hours prior to the discovery of such items.
- f) Specific and objective facts showing the employee diluted, tainted, tampered or interfered with any breath, blood or urine sample, or any test(s) required under this policy, or that the employee attempted to do the same.

7. Post Accident Testing:

- a) When a CDL employee or safety sensitive employee may have caused or contributed to an on-duty motor vehicle accident involving the loss of human life, or
- b) When a CDL employee has been involved in an on-duty motor vehicle accident, where the employee has received a citation, medical attention is required and is administered away from the scene, or if a vehicle is towed from the accident site. An alcohol test(s) should be completed within two (2) hours of the accident and drug test within thirty-two (32) hours of the accident. This testing is to be performed in addition to any drug or alcohol test(s) ordered by law enforcement authorities.

8. Consent

When any employee has consented to a drug or alcohol test(s), the consent must be signed by the employee and a supervisor from the employee's department, or an authorized person from the Human Resources Division.

17.4 Who May Require a Reasonable Suspicion Drug or Alcohol Test(s)

1. Any supervisor who has received training in the signs and symptoms of drug and alcohol use and impairment may require an employee to undergo a reasonable suspicion test(s) for drugs or alcohol based upon (i) the personal observation of the employee by the trained individual, or (ii) personal observation of the employee by another employee who has fully disclosed the observations to the trained individual, or (iii) observation of the employee by a nurse or physician engaged in the treatment or evaluation of a work related injury who has disclosed such observation to the trained individual.
2. Any untrained supervisor may require a reasonable suspicion test(s) for drugs or alcohol based upon his personal observation of the employee, under the following circumstances:
 - a) The employee has been independently observed by a trained supervisor, or
 - b) A trained supervisor has reviewed the underlying facts and agrees that reasonable suspicion exists to require a test.
3. Any trained supervisor or trained member of Human Resources may require a reasonable suspicion drug or alcohol test(s) following a work-related accident based upon personal observation of the employee or upon review of the specific and objective facts underlying the accident.

17.5 Persons Subject to Testing

1. **CDL Employees:** Employees who are required to possess a CDL license as a job requirement are subject to all testing provisions of this policy, including but not limited to, pre-employment and random testing.
2. **Safety Sensitive Employees:** Safety sensitive employees occupy positions 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, fellow employees, citizens, inmates or others. Safety sensitive positions include but are not limited to those which, as part of the essential job functions, require the performance of law enforcement duties as a POST-certified law

enforcement officer; possession of a firearm; providing emergency medical, rescue, or fire suppression services; interacting with incarcerated persons; performing duties essential to drug interdiction; or performing duties which directly affect public health or safety. A complete list of safety sensitive positions is maintained in the Human Resources Division and all class specifications for safety sensitive positions are designated as such.

3. Job Applicants: Applicants for City employment, including applicants for safety sensitive and/or CDL positions are subject to pre-employment testing after a conditional offer of employment has been extended.

4. Non-CDL/Non-Safety Sensitive Employees: All non-safety sensitive and non-CDL employees are subject to drug and alcohol testing for reasonable suspicion unless specifically excluded.

17.6 Procedures

1. Whenever there is reasonable suspicion to require a drug or alcohol test(s) under this policy, the Department Head or designee and Human Resources shall be notified of the circumstances necessitating the test(s) as soon as possible).
2. All circumstances causing reasonable suspicion to require a drug or alcohol test(s) shall be fully documented by the supervisor(s) and all appropriate witnesses as soon as possible.
3. All City-issued equipment, property and facilities, including but not limited to, desks, lockers, and vehicles (collectively “materials”) are subject to inspection at any time and for any reason. No employee shall have any privacy interest whatsoever in any City issued materials. No personal property may be searched unless the owner of the property has consented or a search is otherwise legally permissible.
4. Alcohol screening will be conducted using a federally approved evidential breath-testing device. An initial screening test of two (2) breath samples will be conducted first, and if an initial test detects any level of alcohol, a second confirmation test of two (2) additional breath samples will be completed.
5. Ordinarily, a drug test(s) will check for marijuana, cocaine, amphetamines, methamphetamines, opiates (including heroin and codeine), and phencyclidine (PCP). Testing will involve an initial screening test(s) and confirmation of positive tests by gas chromatography/mass spectrometry (GC/MS) analysis. Test results will be certified, to the fullest extent possible under the circumstances, by a laboratory approved by the U. S. Department of Health and Human Services (DHHS).
6. All positive test results for drugs will be interpreted by a physician approved by the City as a medical review officer (MRO) before the results are reported to the City. Prior to notifying the City, the MRO will make reasonable efforts to contact the employee for the purpose of allowing the employee to offer an alternative medical explanation for the positive test result. If the MRO is able to contact the employee and determines there is a legitimate medical explanation for the positive test, the result will be communicated as negative to the City. The MRO’s inability to contact the employee before providing test results to the City will not void the test result or make the test result unusable in any subsequent disciplinary action. Because the employee is present for interpretation of an alcohol test, the procedure concerning prior notification by the MRO is not applicable.
7. Upon notification by the MRO of a verified positive result for drugs, the employee may request that the remaining portion of his split specimen undergo a second confirmation test at his expense at a DHHS laboratory of his choice. If the test conducted by the laboratory selected by the employee is negative for the presence of drugs, a third test may be made at the City’s sole

expense at a separate DHHS facility of its own choosing. The results of the third facility will be determinative. If the results from the third facility are negative, all prior positive tests will be disregarded and shall not be the basis for any disciplinary or adverse action.

8. The City will make reasonable efforts to notify the employee of a positive drug test within five (5) days from the date it receives the test results. Because the results of a breath alcohol test are immediately available, this provision will not apply to alcohol tests conducted in such a manner.
9. Any employee ordered to be tested, based upon reasonable suspicion, shall be immediately removed from duty, escorted to the testing facility and taken home (unless other suitable arrangements have been made to transport the employee, including calling a cab). Under no circumstances will the employee be allowed to drive himself home. The employee shall turn in keys to a City vehicle, building or office, their identification badge or any other property belonging to the City. The employee shall be placed on administrative leave pending the results of the test. If the final results from the MRO are negative, the employee shall be compensated for the time they were out on administrative leave. If the final results from the MRO are positive, the employee shall not be compensated for the time on administrative leave.
10. An employee who tests positive for drugs or alcohol shall immediately be relieved from duty, required to turn in keys to a City vehicle, building or office, identification badge or any other property that belongs to the City, placed on administrative leave, and sent home pending disciplinary action, if appropriate. After presenting the employee with the notice of administrative leave, DO NOT allow the employee to leave the facility in his own vehicle. A supervisor may take an employee home. If a supervisor is not comfortable taking an employee home, however, a cab may be called to come and take the employee home.
11. In situations in which the employee has been ordered to be tested or tests positive and the employee refuses assistance in leaving the building and walks out or insists on leaving in his own vehicle, document the situation and, depending upon the circumstances, call the Roswell Police Department's non-emergency phone number (770) 640-4100. Give the police the employee's name, vehicle description, and license plate number. However, if the employee is extremely agitated, violent or is making threats of violence, leaves the premises in a City vehicle or you believe the employee has violated the law, call the Roswell Police 9-1-1.
12. Any refusal to consent to a drug or alcohol test(s), or property search will be considered insubordination and gross misconduct and subject the employee to severe disciplinary action up to and including termination.
13. In the event that it is not reasonable under the circumstances to conduct an alcohol test, based on a breath test, the City reserves the right to test for the presence of alcohol by a blood test analysis. If this procedure is used, the City will attempt to notify the employee of the results within five (5) days after the results are received. An MRO will not be used when a blood test for alcohol is conducted.

17.7 Employee Assistance Program

Any employee who voluntarily identifies himself as a user of drugs or abuser of alcohol, prior to being asked or required to take a drug/alcohol test(s), will not be subject to disciplinary action if the employee seeks immediate assistance and treatment through the City's Employee Assistance Program (EAP) or a similarly available treatment program. Failure to comply with all requirements of a treatment program, or continued use of drugs or alcohol during or after completion of such a program, will result in an appropriate disciplinary action if such use causes the employee to violate this policy. Nothing in this policy is intended to discriminate against any person on the basis of addiction to drugs or alcohol, or on the basis of an individual's medical history of addiction to drugs or alcohol pursuant to the Americans with Disabilities Act (ADA). However, the City reserves the

right to take into account, for purposes of employment or disciplinary action, any history of criminal activity related to such use to the extent such may lead to disqualification from employment.

17.8 Arrests for Drug or Alcohol Related Offenses

Any employee who is arrested for a drug or alcohol related offense must notify his Department Head of the arrest immediately. The City will make a determination at that time whether the arrest causes a temporary or permanent disqualification from holding that position, or constitutes grounds for disciplinary action. All convictions for alcohol or drug related offenses must be reported immediately by a CDL or safety sensitive employee to their Department Head. The City reserves the right to take appropriate action based upon such conviction.

All non-safety sensitive employees and non-CDL holders who are required to operate a City vehicle as a regular part of their job must report any drug or alcohol arrest, temporary or permanent suspension of driving privileges, and any drug/alcohol related conviction to their Department Head immediately. The City reserves the right to take appropriate action, including relieving the employee from duty, transferring the employee to a non-driving position, or instituting disciplinary action up to and including termination.

17.9 Confidentiality

All reports of test results for drug and alcohol, searches, or any employee referral, or participation in an EAP program or treatment program for addictive disorders, will be maintained in strict confidence. Any person authorized to have access to such confidential information, who, without authorization, discloses it to another person shall have engaged in gross misconduct and be subject to severe disciplinary action up to and including termination. The confidentiality of such information shall not apply to any use by or communication to the City Attorney, or where the information is relevant to the City's defense in an administrative or civil action. Such information may also be disclosed to the extent required by any federal, state or local law, statute, ordinance or regulation.