

City of Yuma, Arizona
ADMINISTRATIVE REGULATION

Issued by: **Greg Wilkinson**
Authority: City Administrator

SUBJECT: DRUG AND ALCOHOL POLICY FOR CITY EMPLOYEES

Issued: June 1, 2000
Revised: May 9, 2011

- 1.0 PURPOSE:** This Administrative Regulation is issued to comply with City, State, and Federal laws and to clearly establish the City's role to provide service to the public by employees who are free from the influence of alcohol and/or drugs.
- 2.1 CITY'S POLICY ON DRUGS/ALCOHOL IN THE WORKPLACE:** The City of Yuma finds being under the influence of alcohol and/or illegal drugs (including medical marijuana and abuse of legal drugs) poses a threat to its overall ability to safely and effectively deliver services to the public, and to the safety and well-being of employees and coworkers. The City of Yuma will be a drug and alcohol free workplace except as provided by City, State, or Federal law.
- 2.2** The City of Yuma is committed to the safety and well being of all employees and other individuals in our workplace. The objectives of this policy are:
- a) To balance respect for individuals with the need to maintain a safe, productive, and drug-free environment
 - b) To retain valued employees
 - c) To identify employees with alcohol and drug abuse and addiction illnesses
 - d) To encourage education, early identification and assistance.
- 2.3** This commitment is jeopardized when an employee uses alcohol, medical marijuana or illegal drugs on the job, comes to work impaired, or possesses illegal drugs in the workplace. The primary goal of this policy is to achieve a safe and productive work place by maintaining a workplace that is free from the impairment of drugs and alcohol.
- 2.4** This policy does not attempt to address all possible issues that may arise around the use of alcohol and drugs. Each individual is expected to use his or her best judgment and behave in a reasonable and responsible manner. This is especially important in situations outside of the usual workplace, when performing in safety sensitive or driving dependent positions, or when an employee may be called back to work.
- 3.0 APPLICABILITY:** This Administrative Regulation shall apply to all employees. However, random testing shall only apply to those employees who:
- a) hold a Commercial Driver's License as a result of their City employment or
 - b) are in a position that has been identified by the City of Yuma as a Safety-Sensitive position.

4.0 DEFINITIONS:

- 4.1 Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl and isopropyl alcohol, and includes any medication, food or other alcohol-containing products.
- 4.2 Alcohol Use** is defined as the consumption and/or presence of any beverage, mixture or preparation, including any medication containing alcohol which would result in a BAC level of 0.02 or higher.
- 4.3 BAC** means the measurement known as Blood Alcohol Content which identifies the amount of alcohol available in a person's system. BAC levels apply for testing methods of urine, saliva and/or blood.
- 4.4 Current use** of any drug means drug use that has occurred recently enough to justify an employer's reasonable belief that involvement with drugs is ongoing. Current use of any drug is not limited to any specific time frame and depends on the facts of each individual case.
- 4.5 Drug Use** means the possession of and/or impairment by illegal drugs
- 4.6 Drugs/Legal** means the use of controlled substances, medical marijuana, or other legally prescribed substances to the employee by a United States physician or provider registered under the federal controlled substances act, filled by a registered United States provider, and taken as directed.
- 4.7 Drugs/Illegal** means the use of any illegal or unauthorized drugs or misuse of legal drugs which includes medical marijuana as defined by Arizona State Statute.
- 4.8 Drugs and Controlled Substances** are interchangeable and have the same meaning, unless otherwise provided, including medical marijuana.
- 4.9 Good faith** means reasonable reliance on fact, or that which is held out to be factual, without the intent to deceive or be deceived and without reckless or malicious disregard for the truth. A good faith belief may be based on any of the following:
- (a) observed conduct, behavior or appearance.
 - (b) information reported by a person believed to be reliable, including a report by a person who witnessed the use or possession of drugs and or alcohol or drug paraphernalia at work.
 - (c) written, electronic or verbal statements.
 - (d) lawful video surveillance.
 - (e) records of government agencies, law enforcement agencies or courts.
 - (f) results of a test for the use of alcohol or drugs.
 - (g) other information reasonably believed to be reliable or accurate.
- 4.10 Impairment** means symptoms that a prospective employee or employee while working may be under the influence of drugs or alcohol that may decrease or lessen the employee's performance of the duties or tasks of the employee's job position. These may include, but not necessarily limited to, symptoms of the employee's speech, walking, standing, physical dexterity, agility, coordination, actions, movement, demeanor, appearance, clothing, odor, irrational or unusual behavior, negligence or carelessness in operating equipment or machinery. A

AR6

disregard for the safety of the employee or others, involvement in an accident that results in serious damage to equipment, machinery or property, disruption of any city services, any injury to the employee or others or other symptoms causing a reasonable suspicion of the use of drugs or alcohol.

4.11 NIDA stands for National Institute of Drug Abuse and any certification issued thereunder.

4.12 Refuse to submit means

(a) refusing or failure to provide adequate breath, saliva, blood or urine to allow appropriate testing;

(b) refusing to complete any paperwork relating to the test;

(c) engaging in conduct that obstructs the testing process, including adulterating samples;

(d) while on duty, leaving the scene of an accident before a test is administered;

(e) failing to remain readily available for testing when requested; or

(f) failing to appear for testing when scheduled or leaving the testing site before the test is completed.

4.13 Safety-sensitive means any position as designated by the City of Yuma where being under the influence of alcohol and/or drugs may pose a threat to the City's overall ability to safely and effectively deliver services to the public and to the safety and well-being of employees, coworkers or any other person. Examples, while not all inclusive, may include any position that requires the employee to carry a firearm, perform life saving procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; or a position in which a momentary lapse in attention could result in injury or death to the employee or any another person.

4.14 SAMSHA stands for Substance Abuse and Mental Health Services Administration and any certification issued thereunder.

5.0 ACTIONS CONSTITUTING VIOLATION OF CITY POLICY:

- 5.1 Alcohol Consumption:** No employee shall report for duty or be on duty with any measurable alcohol (BAC 0.02 or higher) in his/her system.
- 5.2 Alcohol Possession:** No employee shall possess or consume alcohol while on duty.
- 5.3 Controlled Substances:** No employee shall use controlled substances that have not been prescribed to the employee or are not used as directed. Employees will notify their immediate supervisor of any controlled substance use that may impair their job performance or place themselves or anyone else in danger.
- 5.4 Illegal Drug Use:** No employee shall use or possess illegal drugs.
- 5.5 While on City Travel:** No employee on City-authorized travel (including the use of a city owned vehicle or a rented vehicle if rented for the purpose of conducting City business) shall use alcohol or illegal drugs. No employee on City authorized travel or business shall use alcohol or be impaired by any substance while the employee is acting on behalf of, or for the benefit of the City of Yuma. If an employee chooses to consume alcohol during City authorized travel, that employee will be considered either in violation of the City's policy by using alcohol and may be terminated, or on his/her personal time (not eligible for pay from the City and not eligible for any workers compensation benefits) while the employee has any alcohol in their system.
- 5.6 Medical Marijuana possession and use:** No employee will be allowed to use or possess any type of marijuana or marijuana products while on city property or while utilizing city property.
- 6.0 TYPES OF TESTING:** Alcohol and drug testing may be performed on employees, with or without notice, for the following reasons:
- 6.1 Pre-employment:** Applicants who apply for City designated safety-sensitive positions shall undergo testing for drugs prior to performing any duties in the City.
- 6.2 Post-accident/injury:** Employees may be tested for alcohol and drugs after an accident while on duty and when:
- (a) there is a loss of life; or
 - (b) the employee receives a citation for a moving traffic violation arising from the accident; or
 - (c) there is a good faith reason to believe that alcohol and/or drug usage may have contributed to the accident; or
 - (d) the supervisor or department director believes it is in the best interest of the City to do so; or
 - (e) the employee has been injured and files for benefits under the City's Workers

Compensation Program.

- 6.3 Testing is mandatory** for CDL employees under (a) (b) or (c) of this section.
- 6.4 Random:** Employees required to possess a CDL or employees who have been classified as a Safety Sensitive position may be subject to random alcohol and drug testing during their work period. These employees are notified that they are in positions subject to random testing at time of hire and before being directed to participate in a random test.
- 6.5 Reasonable Suspicion:** Employees will be subject to testing when the City has good faith and/or reasonable suspicion to believe the employee has violated this policy. This determination may be based on (not all inclusive) observations of employee behavior, speech, body odors or appearance that indicates that the employee may have violated the City's policy. Reasonable suspicion testing also includes non-explainable deterioration in an employee's job performance.
- 6.6 Return to Duty:** Any employee who violates this policy and has not been dismissed from employment and any employee who has been returned to duty under the Self-Identification provision will be tested for alcohol and drugs before performing any job duties.
- 6.7 Follow-up:** Any employee who has been returned to duty under Section 7 shall be subject to follow-up testing which may consist of at least six (6) tests in the first twelve (12) months following return to duty, and follow-up testing may be continued for a period not to exceed 60 months after return to duty.

This option may also be utilized when an employee who was terminated from the City within the past two (2) years for violation of this policy is rehired, or upon return to work after substance abuse rehabilitation.

- 7.0 SELF-IDENTIFICATION REQUEST:** Any employee may decline to perform job duties by self-identification that they may be impaired due to drug or alcohol use. Such employee will be removed from job duties and referred for evaluation and possible rehabilitation. If returned to work, the employee will be subject to return to duty and follow-up testing as set forth above. This request must be totally voluntary and is not allowed after an employee has been notified of a random, post-accident or reasonable suspicion testing.

8.0 CONSEQUENCES OF VIOLATING THIS POLICY:

- 8.1** Applicants (including current employees) who are applying for City of Yuma designated safety-sensitive positions and who test positive for illegal drug use will not be considered for employment for a period of one (1) year.
- 8.2** Employees who test positive for unauthorized use of legal drugs will be subject to disciplinary action up to and including dismissal.
- 8.3** Employees who have violated this policy will be subject to disciplinary action up to and including dismissal.
- 8.4** Employees who test positive (0.02 level or higher) for alcohol will be subject to disciplinary action up to and including dismissal.

- 8.5** Employees who admit drug use and or impairment and refuse to participate in or cooperate with any evaluation and possible rehabilitation will be subject to disciplinary action up to and including dismissal.
- 8.6** Employees, Classified or Unclassified, who are convicted of any federal, state or local crime involving controlled substances, shall notify their immediate supervisor within five (5) calendar days of initial conviction. Failure to notify one's immediate supervisor of said conviction is in itself grounds for dismissal. The term "conviction" as used herein means conviction by any trial court-level including but not limited to conviction by any justice, municipal, tribal, superior or circuit court or any other state's equivalent to that court.
- 8.7** Any employee who refuses to submit to testing will be dismissed from employment and will not be considered for future employment for a period of one year.

9.0 CHALLENGING DRUG TEST RESULTS

- 9.1** Any employee who disagrees with the results of a positive drug test may, at his/her total expense, request a retesting of the original specimen. Said retesting must be done by a SAMSHA/NIDA-certified laboratory. A request for retesting must be made by the employee within fourteen (14) calendar days from the date the employee is made aware of the positive drug test. Any employee who requests additional processing or information beyond the retesting of the specimen (including procedures, processes or documentation) will be responsible for all costs in connection with such challenge. Such costs must be payable to the City in advance of any testing.
- 9.2** Should the retesting show an absence of a positive drug, the City may retest the original specimen at a SAMSHA/NIDA-certified laboratory. The results of the third test will be final and conclusive.
- 10.0 CITY'S RIGHT TO WAIVE OR AMEND:** When it is deemed in the best interest of the City to do so, the City Administrator, or designee, may waive or amend any portion of this Regulation, not in conflict with the Personnel Rules, City Charter or City Ordinance.