

SUBSTANCE ABUSE AND PHYSICAL EXAMINATION POLICY

Purpose:

The City of Camas is committed to providing its employees and the public a workplace that is free from substance abuse. The City supports employees undergoing treatment and rehabilitation for substance abuse and notifies employees of the penalties that may be imposed for substance abuse violations in the workplace. This policy complies with the Drug Free Workplace Act of 1988.

Examinations:

Following a conditional offer of employment, an applicant may be required to take a physical exam to determine fitness to perform the essential functions of the position. An employee may be required, at the City's request and expense, to take a physical and/or psychological examination as a condition of continued employment if there is a question about the ability of the employee to perform any of the essential functions of their position or request for a reasonable accommodation. Some employees may be required, according to the legal requirements of their position, to have periodic examinations to ensure their physical ability to continue performing certain functions associated with their job duties. Physical and/or psychological examinations shall be taken in a timely manner whether on or off duty. The City shall be entitled to a physician's report stating an employee's ability/inability to perform regularly assigned duties, any physical and/or psychological limitations, and the physician's recommendations for corrective measures. The physician's report shall be placed in the employee's confidential medical file. All employees shall be required to make a reasonable effort to keep themselves in good health in keeping with the requirements of their particular position and/or classification.

Substance Abuse:

The City considers its employees to be its most valuable asset and believes that professionalism in the delivery of public services can only be maintained within a drug-and alcohol-free work environment. Further, the City believes that employees have a right to work in an environment free of drugs and alcohol and those employees have the obligation not to place themselves in a situation where job performance is impaired by substance abuse.

This chapter has been developed in compliance with the Federal Drug-Free Workplace Act of 1988, regulations of the U.S. Department of Transportation ("DOT"), the Federal Transit Administration ("FTA"), and other relevant authorities.

Drug Free Work Place:

The City recognizes that the maintenance of a drug-free workplace is essential to the safety and welfare of employees. This chapter establishes programs and practices that promote and support a drug-free working environment and brings the parties into compliance with the Drug-Free Workplace Act of 1988.

The intent is to educate employees as to the dangers of drug abuse in the workplace, the commitment to a drug-free workplace, the penalties that may be imposed upon employees for drug violations in the workplace, and the commitment of support for employees undergoing treatment and rehabilitation of chemical dependencies.

Provisions:

- a. Controlled Substances:
 - The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or alcohol in the workplace is prohibited. Reporting to work under the influence of a controlled substance or alcohol is prohibited.
 - As a condition of employment, all employees must notify their department director of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such a conviction.
- b. Prescription or Over-the-Counter Drug Use: The use of prescription and over-the-counter drugs which compromise the safety in the workplace is prohibited. It is the employee's responsibility to check with their physician as to whether or not a prescription drug will impair safe performance. Under this chapter employees are specifically required to notify their immediate supervisor when they are taking medications with warning labels that may affect their ability to remain alert or operate equipment.
- c. Drug Use Away from the Workplace: The use of a controlled substance off the work site by an employee may be grounds for disciplinary action if it results in an adverse impact on the City.
- d. Employee Sanctions: It is the responsibility of every employee to be aware of the above provisions and to abide by them. Failure to observe these provisions will result in discipline of the employee, up to and including termination. The employee may be required to participate satisfactorily in an alcohol or drug abuse assistance or rehabilitative program as a condition of continued employment.
- e. Employee Assistance Program: The City is committed to supporting employees undergoing treatment and rehabilitation for alcohol or other chemical dependency. The City will provide information to employees on available drug counseling and rehabilitation programs. The City currently uses ComPsych: Guidance Resources for our employee assistance program. They can be reached at www.guidanceresources.com or 800-570-9315.
- f. Drug Abuse Education Program: The City will utilize available resources, to educate employees as to the dangers of drug abuse.
- g. Confidentiality: The confidentiality of all complaints and reported violations of the provisions of this directive will be strictly maintained to the extent possible, except

as required by public disclosure laws or court order.

Drug and Alcohol Testing

Purpose: This chapter sets forth the alcohol and drug testing program which is intended to apply the same testing and reporting requirements, with the exception of random testing, to all employees as required by Federal regulations as stated in this section. The purpose of this chapter is to support the drug free work place and establish compliance with the Federal Highway Administration regulations for Commercial Driver's License holders. Regulations issued by the United States Department of Transportation mandate urine drug and evidential breath alcohol testing for employees in safety-sensitive positions, including those who are required to hold a Commercial Driver's License.

Application: This chapter applies to all employees with the additional requirement of random testing for employees who are required to have and maintain a Commercial's Driver's License in order to perform the duties of the job. Contractors performing functions for the City of Camas involving the use of a vehicle requiring a Commercial Driver's License will be subject to specific alcohol and drug testing as required by Federal regulations.

Statement: The City has a significant interest in the health and safety of employees. In furtherance of that interest, the City will take those steps necessary to ensure that employees perform their duties and responsibilities and are free from the influence of drugs and alcohol. Employees are encouraged to seek confidential counseling for problems associated with alcohol and drug abuse through the Employee Assistance Program. There will be mandatory drug and alcohol testing for employees and job applicants under the circumstances outlined in this chapter. All drug and alcohol testing (pre-employment, random, and reasonable suspicion) shall be conducted following the current testing standards and thresholds established by the U.S. Federal Department of Transportation.

Training and Education: Employee education and supervisor training are essential parts of this program. All existing and new employees will receive information on the impact of drug and alcohol use and will receive information on resources for assistance. Supervisors will receive the same training as well as additional training in the recognition and detection of signs and symptoms of alcohol and drug misuse. Supervisors will not be permitted to make reasonable suspicion test referrals unless they have completed training required by federal regulations.

Types of Testing

1. **Pre-Employment Drug Testing:** All individuals employed in CDL required positions and all safety-sensitive positions must pass a drug test as a post-offer condition of employment.
2. **Reasonable Suspicion Testing:** Employees shall submit to a drug and/or alcohol test when the City reasonably suspects that this policy may have

been or is presently being violated. A referral for testing will be based on current, clearly described observations. Such referrals will be made by supervisory personnel who have received training concerning the signs and symptoms of drug and alcohol use, confirmed by a second trained supervisor where possible. Prior to questioning the employee about the observed behavior, the supervisor will inform represented employees of their right to have union representation present during the meeting. Employee's requests for representation will be honored to the extent that honoring the request does not unreasonably delay testing. When reasonable suspicion exists, the affected employee will be questioned and observed. A decision to request a specimen will be based upon eye witness reports, facts of the event and observed physical and behavioral characteristics of the affected employee. The employee will be interviewed in a private area where possible.

- A. Verification: A reasonable suspicion request will be documented in writing with a copy provided to the affected employee.
 - B. Relief of Duty: The employee will be placed on leave until the results of the drug and/or alcohol test are complete and verified. If the test results are negative, the employee will be compensated during the waiting period for all work time lost. If the test results are positive employees will be allowed to use vacation, floating holiday, or compensatory time, at their discretion or sick leave if entitled or applicable during the period of absence due to waiting for the test results to eliminate any loss of income. If an employee uses paid leave during the period of absence, they must notify their supervisor which type of paid leave will be used during the period of absence. The City shall thereafter notify the employee of the disciplinary action in accordance with Chapter 17.
 - C. Transportation Assistance: The employee will be accompanied to the collection site by a supervisor or director. The employee will be provided transportation home. If the employee refuses and demands to drive their vehicle, the City shall notify law enforcement.
3. If removed from duty based on reasonable suspicion of alcohol use and an alcohol test is not administered within eight (8) hours, the employee will not be allowed to return to duty until:
- A. An alcohol test is administered and the employee's breath alcohol concentration measures less than 0.02; or
 - B. 24 hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has violated this policy concerning the use of alcohol.

4. Post-Accident Testing: Following an accident, as defined under definitions in this chapter, the employee is required to submit to alcohol and drug tests. Testing should occur as soon as possible, but may not exceed eight (8) hours after the accident for alcohol testing and thirty-two (32) hours after the accident for drug testing.

An employee who is subject to post-accident testing must remain readily available for such testing and may not take any action to interfere with testing or the results of testing. Employees who do not comply with post-accident testing requirements will be considered to have refused to submit to testing and will be subject to sanctions for refusal to test as provided in this policy.

5. Random Testing: Employees required to have a CDL will be subject to random, unannounced alcohol and drug testing whenever they are on duty.
6. Return to Duty Testing: Employees who have violated this policy chapter including those who have tested positive on a drug or alcohol test, and, who under the discipline section are allowed to return to work, must test negative prior to being released to duty. A return to duty test following alcohol misuse may not exceed an alcohol concentration of 0.02.
7. Follow-Up Testing: An employee who is referred for assistance related to alcohol misuse and/or use of drugs is subject to unannounced follow-up testing for a period not to exceed sixty (60) months as directed by a Substance Abuse Professional and the City. The number and frequency of follow-up tests will be determined by the Substance Abuse Professional and the City, but will not be less than six tests in the first twelve (12) months following the employee's return to duty. The employee will be responsible for costs associated with follow-up testing not covered by insurance should a positive test result occur and the employee is retained in the City workforce.
8. Re-Testing: Employees who test positive for drugs may request a second test of the remaining portion of the split sample within seventy-two (72) hours of notification of a positive test result by the Medical Review Officer. The cost of the second test will be borne by the City.
9. Testing Compensation: All time spent administering alcohol or controlled substance tests, including travel time, will be paid at the employee's regular rate of pay, or at their overtime rate if applicable. Time spent in taking second tests will not be compensated. Any employee who is not allowed to return to work while awaiting test results will be placed on paid leave during the waiting period. If the test results are negative, the employee will be compensated during the waiting period for all work time lost. If the test results are positive, employees will be allowed to use vacation,

compensatory time, sick leave or other paid leaves during the period of absence to eliminate any loss of income. The City shall pay all costs associated with the administration of alcohol and controlled substance tests except follow-up testing. The employee will be responsible for costs associated with follow-up testing not covered by insurance should a positive test result occur and the employee is retained in the City workforce.

10. Refusal to Take an Alcohol or Drug Test: No employee shall refuse to submit to an alcohol or drug test as directed under this chapter. A refusal to submit shall include, but is not limited to:
- A. A failure to provide adequate breath for testing without a valid medical explanation after the employee has received notice of the requirement for breath testing in accordance with the procedures manual;
 - B. Failure to provide adequate urine for drug testing without a valid medical explanation after the employee has received notice of the requirement for urine testing in accordance with the procedures manual;
 - C. Engaging in conduct that obstructs the testing process.

Refusal to submit to a test shall be considered insubordination and shall be deemed the same as a positive test result.

Definitions:

Accident - Accident means an occurrence involving the employee which results in (1) a fatality; (2) bodily injury of a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; (3) overall property/vehicle damage estimated at \$1,000 or more; (4) the employee cannot be completely discounted as a contributing factor to the accident; (5) one or more motor vehicles incurring disabling damage requiring the vehicle to be transported away from the scene by a tow truck or other vehicle; or (6) a citation for a moving traffic violation arising from the accident.

Driver - This term includes all employees whose positions may involve driving a commercial vehicle and that require the possession of a Commercial Driver's License.

Commercial Vehicle - A commercial vehicle is one that either: (1) has a gross vehicle weight of over 26,000 pounds (including combined weight if towed unit weighs over 10,000 pounds); (2) is designed to transport 16 or more persons, including the driver; or (3) is used to transport hazardous materials.

Drugs - In accordance with the applicable federal regulations, "drugs" refers to the following five substances: marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines.

Medical Review Officer (MRO) - The Medical Review Officer is the licensed physician responsible for receiving and interpreting laboratory results from the urine drug tests.

Safety Sensitive Position - These are positions associated with the driving of commercial vehicles.

Substance Abuse Professional (SAP) - A Substance Abuse Professional is a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders. The SAP is responsible for evaluating employees with positive test results.

Prohibited Conduct:

The following conduct regarding alcohol and drug use or abuse is prohibited.

1. Alcohol Concentration: An employee may not report for or remain on duty, for the performance of duties covered under this chapter while having an alcohol concentration of 0.04 or greater.
2. Alcohol Possession and On Duty Use of Alcohol: An employee may not possess or use alcohol while on-duty or while operating a commercial vehicle.
3. Pre-Duty Use of Alcohol: An employee may not report for duty or operate a commercial vehicle within four hours after using alcohol. An on-call employee who consumes alcohol within four (4) hours of being called in must acknowledge the use of alcohol and may not report for duty.
4. Alcohol Use Following an Accident - An employee required to take a post-accident alcohol test may not use alcohol for eight (8) hours following the accident, or until a post-accident alcohol test is given, whichever comes first.
5. Use of Drugs: An employee may not report for duty, remain on duty, or drive a commercial vehicle when the employee has used a drug or drugs, except when the use is pursuant to instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely perform their duties or operate a commercial vehicle. Employees who are taking a prescription or over-the-counter medication that may impair their ability to perform their duties safely must provide written notice from their physician with respect to the effect of such substances.
6. Refusal to Submit to a Required Test: An employee may not refuse to submit to

a post-accident, reasonable suspicion, or follow-up alcohol and drug test as directed by this chapter. In addition, employees required to have and maintain a CDL may not refuse to submit to random testing as directed by this chapter.

7. Positive Drug Test: An employee may not report for duty or remain on duty, if the employee tests positive for drugs or alcohol.
8. Tampering with a Required Test: An employee may not tamper with, adulterate, alter, substitute or otherwise obstruct any testing process required under this chapter.
9. Possession, Transfer or Sale: No employee may possess, transfer or sell drugs or alcohol while on duty.

Securing Information from Previous Employers:

As a condition of employment and post-offer of employment, all applicable applicants that will be holding a position requiring a CDL must authorize a request for all employers within the past two (2) years to release information of the following:

1. Positive alcohol and drug tests
2. Refusal to be tested.

This information must be obtained before the person is employed by the City. However if the information has not arrived by the anticipated start date, and the person has passed the pre-employment drug test, the person may be hired and the requested information obtained from the previous employers within fourteen (14) calendar days of the date of hire. If the information has not been received within the fourteen (14) calendar days, the person will not be permitted to drive commercial vehicles until the information has arrived.

If the information obtained from previous employer(s) indicates either a positive test or a refusal to be tested occurred within the past two (2) years, that person shall not be hired by the City. That person will not be permitted to drive commercial vehicles unless subsequent information indicates that the person has been released to operate a commercial vehicle by a Substance Abuse Professional and has successfully completed return to duty testing.

If no such information was generated about the applicant or if the past employer(s) cannot be located or refuse(s) to cooperate, the supervisor will so document and send a report to Administrative Services. Normal hiring may proceed when a memo documenting the lack of information has been sent to Administrative Services.

Confidentiality and Record Retention:

All records related to drug and alcohol testing will be maintained in a secure location with

controlled access. Record retention time frames shall be in accordance with DOT criteria for CDL employees, however for all other employees; 1) records for negative tests shall be removed and destroyed after one (1) year and; 2) records of positive tests shall be removed and destroyed after five (5) years. These records will be kept separate from all other records.

Consequences of Engaging in Prohibited Conduct or Positive Drug or Alcohol Tests:

Discipline and Rehabilitation: An employee will be subject to appropriate disciplinary action up to and including termination from employment if:

1. The employee tests positive for a drug or drugs; and/or,
2. Results from an alcohol test indicating a blood alcohol level of 0.04 or greater; and/or,
3. The employee has engaged in prohibited conduct as outlined above.

All employees, regardless of disciplinary action taken, will be advised of resources available to the employee in evaluating or resolving problems associated with drug use or alcohol misuse.

The City shall make reasonable efforts to afford union represented employees the right to applicable representation whenever an employee is directed to submit to an alcohol or drug test which is for cause, post-accident, or reasonable suspicion.

The following sections of this policy apply to those employees who are not terminated for their violation of the alcohol and substance abuse policy:

Positive Test Results and/or Engaging in Prohibited Conduct:

If an employee tests positive for drugs or has an alcohol test that indicates blood alcohol level of .04 or greater from a random, reasonable suspicion, post-accident, or other authorized test, or engages in prohibited conduct as outlined in this chapter, the employee will be immediately removed from all duties including the driving of a commercial vehicle. The employee will not be permitted to return to work unless they:

1. Have been evaluated by a qualified Substance Abuse Professional;
2. If recommended by a Substance Abuse Professional, have properly followed any rehabilitation prescribed; and,
3. Have a verified negative result on a return-to-duty alcohol (<0.02) and/or drug test.

Upon completion of a recommended rehabilitation program and successful return to work, an employee will be subject to follow-up random testing for up to sixty (60) months as recommended by the Substance Abuse Professional and the City, with a minimum of six (6) such unscheduled tests within the first twelve (12) months of returning to duty.

Alcohol Concentration of 0.02 but less than 0.04: Employees having a breath alcohol concentration of at least 0.02 but less than 0.04, shall be removed from duty requiring the driving of a commercial vehicle for at least 24 hours.

Employee Assistance Program/Voluntary Referral: The City supports employees who volunteer for treatment of alcohol or drug abuse. Employees are encouraged to seek treatment voluntarily and to utilize the Employee Assistance Program. Any employee who comes forth and notifies the City of alcohol or drug abuse problems prior to violating the City's alcohol and substance abuse policy will be given the assistance extended to an employee with any other illness.

Any such program, however, may not interfere with the tests required by these rules. For example, a driver may not identify themselves as unfit to drive after having been notified of a random or reasonable suspicion test and expect to avoid the consequences for a positive test or a refusal to test. In addition, voluntarily seeking assistance does not excuse any failure to comply with all of the provisions of this chapter.

Sick leave, vacation leave, or leave of absence without pay may be granted for treatment and rehabilitation as in other illness. Insurance coverage for treatment will be provided to the extent of individual coverage. Confidentiality of information will be maintained as much as possible at all times.

Reporting Violations

Experience indicates that individuals with substance abuse problems best respond to appropriate confrontation, dialogue, and notice about the impact and risks of their situation. Therefore, an employee who is aware of substance use or behavior in violation of this Policy is encouraged to promptly report the behavior to management. To the degree possible, the reporting employee's identity will be kept confidential.

Enforcement and Discipline

The City takes a strong stand against substance abuse and its impact on the workplace. Accordingly, violations of this Policy will be grounds for appropriate disciplinary action, up to and including termination. Additionally, law enforcement authorities will be notified in appropriate situations.