



<b>CHAPTER: 06 HUMAN RESOURCES POLICIES</b>  <b>SECTION: 01 STANDARD OF CONDUCT</b>  <b>SUBJECT: 01 DRUG FREE WORKPLACE</b>	<b>POLICY #: 06.01.01</b>
	<b>DEPARTMENT: HUMAN RESOURCES</b>
	<b>EFFECTIVE DATE: 08/01/09</b>
	<b>CITY MANAGER: MICHAEL LEVINSON</b>
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**POLICY**

As part of our commitment to safeguard the health of our employees, to provide a safe place for our employees to work, and to promote a drug free community, the City of Coral Springs has established a Drug Free Workplace prohibiting the use or abuse of alcohol and drugs by employees. In the spirit of safety, employees are expected to support our drug free workplace. Substance abuse, while at work or otherwise, seriously endangers the safety of employees, the general public, and creates a variety of workplace problems including a decline in the quality of products and services provided. Employees injured in the course and scope of employment that test positive on drug or alcohol tests may forfeit medical and indemnity benefits under Florida's Workers Compensation. Refusal to take drug or alcohol tests also results in forfeiture of medical and indemnity benefits under Florida's Workers Compensation and automatic termination of employment. Reasonable assistance is offered to employees who voluntarily recognize a substance abuse problem. However, performance standards are upheld even if 'Below Expected' performance is related to drug or alcohol use; such instances result in disciplinary actions. Violations of the Drug Free Workplace policy are not tolerated and result in disciplinary actions up to and including termination.

**SCOPE**

This policy is pursuant to the Drug Free Workplace Program under Florida's Workers Compensation Law. The City has adopted Florida Administrative Code Rule Chapter: 59A-24. To the extent that conflicts may arise, Florida Administrative Code Rule Chapter: 59A-24 shall prevail.

This policy applies to all employees and job applicants as allowed by law. As a condition of employment, employees are required to abide by our Drug Free Workplace program. Collective Bargaining Agreements may specify different procedures that conform to the essential elements of our Drug Free Workplace.

## **DEFINITIONS**

1. "Drug" means substances such as alcohol, including distilled spirits, wine, malt beverages, or intoxicating liquor; any prescription or non-prescription amphetamines, cannabinoids, cocaine, phencyclidine (PCP), or opiates, or a metabolite of any of these substances for the D.O.T. 5 panel test, or any prescription or non-prescription amphetamines, cannabinoids, cocaine, phencyclidine (PCP), methaqualone, barbiturates, benzodiazophines, methadone, propoxyphene, or opiates, or a metabolite of any of these substances for the H.R.S. 10 panel test. Threshold detection levels are established by Florida regulations (i.e. blood alcohol content of .05 or greater will result in a positive drug test). Therefore, activities participated in while off duty may result in positive drug tests. For DOT covered employees, alcohol includes any intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols. Consumption of a preparation including alcohol (beverages or medicines) is considered alcohol use. Alcohol concentration of 0.04 or greater will result in a positive drug test for DOT covered employees; 0.02 through 0.039999 concentrations will result in discipline as specified in the City's Discipline Policy.
2. "Drug test" or "test" means any initial screening test utilizing a sensitive, rapid, and reliable procedure using an immunoassay procedure or an equivalent more accurate method approved by FDA or AHCA; and/or any confirmation test using gas chromatography/mass spectrometry or an equivalent more accurate method approved by AHCA or FDA. Drug tests are administered after appropriate medical care has been initiated. A saliva alcohol test may be used to determine whether a blood alcohol test should be administered.
3. "Reasonable suspicion testing" means drug testing based on a belief that an employee is using or has used drugs in violation of this policy. Facts and inferences may be based upon direct observation of drug use, physical symptoms or indications of being under the influence of drugs; or abnormal conduct, erratic behavior or deterioration in work performance; or a report of drug use by a credible or reliable source; employee involvement in an accident of any type at work; evidence that an employee used, possessed, sold, solicited or transferred drugs while working within city premises, vehicles, machinery, or equipment. "Problem Indicators" checklists may be used to assist in determination of reasonable suspicion. The threshold level for vehicular accident, equipment or property damage drug testing is \$300.

4. "Positive test" means the results of a confirmation test reported through a medical review officer finding the presence of drug(s) in one's body. When a confirmed positive test occurs, it is presumed that the injury or accident was primarily due to the influence of the drugs in accordance with regulations.
5. "Injury" means any act that causes personal injury requiring medical attention, property damage, or loss arising out of and in the course of employment. Property damage encompasses city or private property harm associated with an accident.
6. "First Aid" means application of treatment for minor personal injury not sufficient to require medical attention. Examples include but are not limited to bee stings, paper cuts, poison ivy rashes, minor scratches, sunburn, spider bites, or blisters. Drug testing is not conducted for instances of minor personal injury treated with first aid.
7. "Job applicant" means a person who has applied for a position with the City, whether or not that person is presently employed with the City. Job applicants must successfully pass the City's drug test at some point in the pre-employment or post offer processes in order to be considered for employment.
8. "Body specimen" means urine for all tests except when testing for alcohol when saliva and/or blood is used. If an employee is hospitalized, specimens will be collected in accordance with relevant medical standards. Collections are administered with due regard to privacy while reasonably preventing sample contamination or substitution.
9. "Medical Review Officer" means a licensed physician with knowledge of substance abuse disorders and training to interpret and evaluate positive results with prescriptive or other relevant medical information.
10. "Random" means unannounced drug testing for specific employees covered by the Omnibus Transportation Employee Testing Act of 1991 regulated by the DOT. Volunteers and contract employees in positions covered by the DOT standards are also subject to random drug testing.

## **PROVISIONS**

1. **PROHIBITIONS.** In support of a Drug Free Workplace program, the City prohibits possession (i.e., on the person, or in a desk or locker), consumption, use or being under the influence, sale, purchase, manufacture, distribution, dispensation, solicitation, or transfer of drugs while employees are on the job or on city premises, or drug related crime convictions. Employees should be aware that drug activities participated in while off duty may result in positive drug tests when on duty. DOT covered employees are prohibited from using alcohol during the four hours before reporting to duty; alcohol concentrations of 0.02 through

0.03999 will result in discipline as specified in the City's Discipline policy. Such individuals must pass a report to duty drug test with lower than 0.02 concentration immediately prior to returning to duty.

2. CONFIDENTIALITY. Confidentiality is maintained to the extent allowed by law for persons who seek counseling through the Employee Assistance Program. Confidentiality is also extended to include all information received by the employer through a drug testing program. Such information may not be used or received into evidence, obtained in discovery or disclosed in any proceedings except in accordance with this section or in determining compensability under Chapter 440, Florida Statutes.

This section does not prohibit the City, agent of the City, or laboratory conducting drug testing from having access to employee drug test information or using such information when consulting with legal counsel in connection with action brought under or related to this section or when the information is relevant to its defense in a civil or administrative matter.

3. EDUCATION. This policy is distributed to employees to foster their understanding of the City's Drug Free Workplace; a copy is also posted in the Human Resources Department. Additionally, the City provides annual training on substance awareness to help employees identify personal and emotional problems that may result in misuse of alcohol or drugs. The sessions include the legal, social, physical and emotional consequences of the abuse of alcohol or drugs.
4. FITNESS FOR DUTY. Employees are expected to report to work and to return from meal breaks in a state of mind and a condition absent the influence of drugs or alcohol in order to perform their assigned duties safely and competently. This includes prescription drugs which induce an unsafe mental or physical state. Performance standards are upheld even if 'Below Expected' performance is related to drug or alcohol use; such instances result in disciplinary actions. While employees are not required to divulge medications associated with a disability as recognized under the Americans with Disabilities Act, they must report to their supervisor the use of temporary medications which likely will impair their ability to safely perform their functions. Prescription medications must be kept in the original container if such medication is taken during working hours or on City property. Improper use of prescription drugs is prohibited and may result in disciplinary action. An employee whose performance is likely to be impaired due to drug influences will not be permitted to report for duty. Supervisors should contact the Human Resources Department for consideration of the Americans with Disabilities Act relative to this provision.
5. APPLICANT DRUG TESTING. All applicants for regular full time and regular part time positions (where permissible by law) are subject to post offer applicant drug testing following the H.R.S. 10 panel drug and alcohol guidelines. Applicants for

seasonal or temporary work may also be drug tested. Only applicants successfully passing this pre-employment phase will be granted further consideration in the employment process. Except for DOT covered employees, the City may allow the job applicant to begin work pending the results of the drug test. If the test result is positive, the applicant will be subject to immediate discharge. Any applicant who fails to appear for drug testing will be ineligible for hire. Unsuccessful applicants with positive drug test results are not considered for any position for two (2) years from the date the City receives notice of a failed drug test. Current employees testing positive under these pre-employment guidelines are handled as if reasonable suspicion testing were conducted. Applicants possessing a Commercial driver's licenses (CDL), at the time of their application for employment, are required to consent to releasing the prior 2 years positive drug test results and refusals as a condition of employment.

6. **REASONABLE SUSPICION TESTING.** All employees are subject to "reasonable suspicion" testing following the D.O.T. 5 panel guidelines. DOT covered employees are required to undergo drug testing within 2 hours following an accident involving loss of life or having been issued a citation regardless of damage limits or medical attention. The reasonable suspicion drug testing threshold for vehicular accidents, equipment or property damage (as estimated by the designated Public Works employee) is \$300 or more. Minor damage (less than \$300) does not constitute reasonable suspicion unless associated with other circumstances. Failure or refusal to submit to, or tampering with a required test may result in immediate termination for violating the Drug Free Workplace Policy. Supervisors may use a 'Problem Indicators' checklist to assist in reasonable suspicion determinations. Supervisors with possible reasonable suspicion should confidentially contact Human Resources for assistance. Within seven (7) days of testing, the reporting supervisor must detail in writing the circumstances leading to the conclusion that reasonable suspicion testing is justified and submit this confidential documentation to Human Resources. Upon request, a copy of this documentation will be provided to the employee.
  
7. **WORKERS COMPENSATION DRUG TESTING.** Drug testing is conducted for Worker's Compensation incidents in compliance with Florida Statutes 440.102 et. seq. following the D.O.T. 5 panel guidelines. It is the responsibility of the employee to notify their supervisor prior to the end of the workday when any accident, first aid, or any injury occurs on the job. Drug testing is not conducted for injuries that do not require medical attention, unless property damage is \$300 or more as stated in provision six (see above). The supervisor must then immediately notify Risk Management regardless of the category of incident (first aid, injury, accident) and provide transportation for the employee to the designated collection site for all injuries and accidents. Drug testing may be conducted when medical attention is required or requested. Failure to report first aid, injuries or accidents as required is grounds for disciplinary action up to and including termination. The Risk Management Coordinator will determine

whether drug testing is required and will make arrangements for the involved employee(s) to undergo drug testing.

8. **RANDOM DRUG TESTING.** Only employees who are covered by DOT standards are randomly selected at various times for unannounced drug testing. A minimum of 25% of covered positions will be tested annually for alcohol; a minimum of 50% will be tested for drugs. These percentages can change based upon the percentage of passing results. Covered employees will be selected by a scientifically valid method (ie - computer generated random number table). Each employee has an equal chance of being selected each time regardless of being previously tested.
9. **FOLLOW UP AND RETURN TO DUTY DRUG TESTING.** Employees who enter rehabilitation programs or EAP's for drug related problems are required to submit to follow up drug testing utilizing the D.O.T. 5 panel guidelines as evidence of successful participation in such programs. Follow up drug testing shall occur without notice to the employee at least once in the first and second years after completing the prescribed program. Return to duty drug testing applies only to DOT covered employees which requires a passing drug test prior to returning to duty after the Substance Abuse Professional's assessment, evaluation, and an outlined treatment has been identified and begun at a substance abuse or rehabilitation center. DOT covered employees are subject to at least 6 unannounced drug tests in the 12 months following a return to duty. Additional testing can occur for 60 months following return to duty.
10. **REFUSAL TO UNDERGO DRUG TESTING.** Employees or applicants who refuse or decline to submit to drug testing are presumed to have abused drugs or alcohol. Such individuals are in violation of the Drug Free Workplace Policy and will be denied employment or Workers Compensation benefits, and/or immediately terminated.
11. **DRUG TESTING HOURS.** Drug testing is available 24 hours a day, 7 days a week at a local hospital. Alternatively, drug testing services are available through a local walk-in clinic from 8 a.m. – 8 p.m.; Monday through Friday or 8:00 a.m. – 4:00 p.m. on Saturday or Sunday. (Employees with workers compensation injuries should follow established guidelines for treatment.) When an injury is sustained after hours, the supervisor on call should meet the employee on the same day, even if it is a scheduled day off for either the employee or the supervisor, and report to the designated collection site immediately for drug testing. The actual time spent from arrival to departure at the collection site is compensable for non-exempt employees..
12. **COLLECTION SITES AND LABORATORIES.** Specimens will be analyzed by a highly qualified independent laboratory approved by the Florida's Agency for Health Care Administration. Collection sites have all necessary elements to ensure collection, security, chain of custody, temporary storage, and

transportation of specimens to approved laboratories. Laboratories used are licensed and approved in accordance with federal and state laws. Quality control and chain of custody procedures ensure the integrity of drug tests.

13. **MEDICAL REVIEW OFFICER.** Laboratories provide the designated Medical Review Officers (MRO) with any confirmed positive results; the MRO contacts the tested individual to obtain a confidential explanation of any positive results that must be supplied within 5 work days. The MRO then makes a determination and reports either pass or fail results to the City except for pre-employment Police Department testing. Actual results are supplied to the Police Department in such instances. An MRO can require an additional drug test on the initial specimen if the initial screening is deemed scientifically unsatisfactory.
14. **EMPLOYEE RESPONSIBILITIES.** All employees share responsibility for adhering to, implementing, and communicating this policy; for reporting all occupational accidents (regardless of whether accident occurred in a City vehicle or personal vehicle used for City business), first aid, or injuries prior to the end of their work day to their supervisor or Risk Management; for submitting to drug testing; and for recognizing and responding to violations of this policy.
15. **SUPERVISOR RESPONSIBILITIES.** Supervisors have responsibility for identifying and acting upon situations or conditions that warrant reasonable suspicion drug testing, and for maintaining confidentiality of relevant information. Information is only divulged to those supervisory and management personnel with a need to know. Supervisors also share employee responsibilities as well.

Supervisors having reasonable suspicion of employee drug and/or alcohol use should first ensure employee and public safety by quickly reviewing the employee's assignments and temporarily removing any duties (i.e., driving of vehicles or machinery) which may result in harm to the employee, co-workers, the public at large, or private or public property. Second, the supervisor should immediately contact Human Resources to arrange for drug testing. Third, the supervisor provides transportation for the employee to the drug testing facility. Fourth, the reporting supervisor must detail in writing the circumstances which lead to the conclusion of a need for drug testing within seven (7) days of testing, and submit this document to Human Resources.

16. **EMPLOYEE ASSISTANCE PROGRAM AND RESOURCE INFORMATION.** The Human Resources Department maintains information on the Employee Assistance Program and a resource file of providers of alcohol/drug abuse programs, mental health providers and other organizations designed to help individuals with personal or behavioral problems.
17. **VOLUNTARY PARTICIPATION IN EAP OR REHABILITATION.** Employees may voluntarily seek substance abuse counseling through Human Resources or directly through the Employee Assistance Program offered by the City. Other

than the City provided EAP benefit, employees are responsible for any rehabilitation costs, even if the EAP refers the employee to a particular program. Employees are not disciplined because they voluntarily seek treatment for a drug related problem unless previously testing positive for drug use on a City administered test. However, drug or alcohol users are held to the same performance standards as other employees, regardless if the performance is related to drugs or alcohol. Voluntary participation in an EAP or rehabilitation program is not protection from disciplinary measures resulting from job-related infractions, misconduct, offenses, or unsatisfactory job performance. Employees in safety sensitive positions who voluntarily enter into EAPs or rehabilitation programs for drug or alcohol related problems are transferred into a non-safety sensitive position (if available) or placed on leave while participating in the program. Accrued leave or leave without pay may be used consistent with applicable benefit policies. Employees not drug tested who have completed a voluntary rehabilitation program and are drug-free may return to work with a signed return to work agreement. Employees previously testing positive on a drug test may return to work with a signed Return to Work Agreement; such employees are subject to follow up drug testings without notice for a two year period. Failure to remain drug free throughout employment with the City will result in termination.

18. **DRUG TESTING PROCESSES.** The designated collection site has a consent form which must be signed by the individual to provide relevant information; listings of the common and chemical names of drugs tested and drugs that may affect test results are also supplied. Individuals with technical questions regarding medications may consult with the MRO. Information provided by the individual is maintained in confidence by the testing provider. Until results are transmitted to the City, employees in safety sensitive positions are temporarily transferred to a vacant, non-safety sensitive position (if available), or placed on leave and may use leave accruals prior to leave without pay. Those employees not in safety sensitive positions may resume duties upon completion of drug testing.
19. **DRUG TEST RESULTS.** Individuals with positive confirmed tests are contacted by a Medical Review Officer. If the MRO subsequently reports a positive (failed) result to the City, the employee is placed on suspension without pay immediately; "Timeline" provisions of this policy as provided in Provision 20 are carried out. For purposes of this policy, an employee is presumed to be under the influence of drugs or alcohol if a urine test, blood test, or other accepted testing procedure shows a forensically acceptable positive quantum of proof of drug usage. If the MRO reports a positive drug test was dilute, the test is treated as a verified positive test and the employee is not retested.

Employees with negative drug/alcohol tests (passing results) are returned to the workplace after supervisory counseling relevant to the suspicious conditions. If the MRO reports a negative drug test was dilute and directs the City to conduct a

recollection under direct observation (i.e. because the creatinine concentration of the specimen was equal to or greater than 2 mg/dL,) the City will arrange to have the employee take another test immediately. If the creatinine concentration of the dilute specimen is greater than 5 mg/dL, but the City is not directed by the MRO to conduct recollection, the City may, but is not required to, direct the employee to take another test immediately. This recollection must not be collected under direct observation, unless there is another basis for use of direct observation. The employee must be given the minimum possible advance notice that he or she must go to the collection site. The result of the second test and not the prior test will be used as a result of the record. If the result of the second test is also negative and dilute, the City is not permitted to make the employee take an additional test because the result was dilute. Provided, however, that if the MRO directs the City to conduct a recollection under direct observation, the City must do so immediately. If the employee declines to take a second test as directed by the City, the employee has refused the test for purpose fo this part and DOT agency regulations. Records of Discussion are completed to document counseling and assist employees to correct the conditions that led to reasonable suspicion. Leave periods are adjusted to replace used accruals with administrative leave. Human Resources or Risk Management will verbally inform employees of passing results.

20. **TIMELINE** Within five (5) working days from receipt of the positive confirmed test results from the MRO, the City informs the employee/applicant in writing of the failed results, the consequences of the results, and options available; the tested individual has five (5) working days to provide Human Resources with a written response explaining or contesting the results, explaining how the accident or incident occurred, and why a violation of this policy has not occurred. If requested, a copy of the specific positive results will be provided by the MRO to the employee/applicant. Within 15 days from receipt of response, the City provides a written response to the tested individual explaining whether the submitted explanation is satisfactory; if deemed unsatisfactory, a copy of the failed result will be sent directly to the individual by the MRO. A final decision regarding employment status is then rendered by the City.
  
21. **DENIAL OF WORKERS COMPENSATION BENEFITS.** If the MRO reports positive test results, the City will notify involved health care providers and the employee that all claims for medical and indemnity benefits under the Workers Compensation Act are forfeited and will not be paid beyond the date of the notice in compliance with and as allowed under Florida's Workers Compensation Act. This denial may be rescinded if the employee's written response to Human Resources explaining how the accident or incident occurred is deemed satisfactory. Benefits for work related injuries are not covered under the City's health plan. Positive test results after an accident or injury is considered a violation of this policy warranting disciplinary action, up to and including termination regardless of the status of payment of benefits.

22. **WORKERS COMPENSATION CHALLENGE RIGHTS.** Within 30 days from the City's final response, an administrative challenge can be filed with a Judge of Compensation Claims for instances of denied Workers Compensation. Legal challenges can also be filed through the judicial system at the individual's expense.
23. **EMPLOYEE PROTECTION.** Employees will be informed when Workers Compensation benefits are denied; authorized medical treatments already received prior to the denial are paid by the City. If notified by the City of a positive confirmed drug test result, employees have five (5) workdays to respond with an explanation of the positive results, why results do not violate policy and explain the accident/incident to the City's satisfaction, or to contest the results; the City must respond in writing within 15 days after receiving an explanation. Employees can obtain a copy of the positive results upon request. Employees have the right to legally or administratively challenge the test results; drug test providers must be notified by the employee if such challenges are selected. Tested individuals can also retest the original specimen within 180 days at their own expense by contacting the laboratory; employees may choose a different laboratory provided it is in compliance with Florida laws and administrative codes. Positive results are not released or used in criminal proceedings.
24. **CITY PROTECTION.** As a Drug Free Workplace in compliance with the Drug Free Workplace Act, the City is presumed to have acted on a case-by-case basis for cause when disciplining for violations of this policy. The MRO generally provides the City with pass/fail results and not the specific positive results unless it is a DOT test.
25. **DRUG RELATED CRIME ARREST OR CONVICTION.** An arrest for a drug related crime constitutes reasonable suspicion of drug use for purposes of this policy. The employee will then be subject to drug testing. Employees must notify their supervisor within five (5) days of a drug related arrest who will then notify Human Resources. Employees arrested but not convicted of a drug related crime will be subject to placement on leave without pay pending the outcome of the case or completion of a City initiated investigation. Investigations may include drug testing. If the case is dismissed or ends in less than conviction of the employee, the City will make a determination as to whether the employee may return to work based upon the findings of an investigation. If authorized to return to work, the employee must sign a Return to Work agreement which includes 2 years of unannounced, periodic drug testing. Employees are required to notify their supervisor of a conviction for any drug related violation within 5 days. Employees convicted of a drug related crime will be terminated.

- 26. PERFORMANCE EVALUATIONS AND REWARDS. If a violation of the Drug Free Workplace program occurs, the employee's performance evaluations will reflect that a violation of city policy occurred during the rating period. If a violation has occurred, 1% will be deducted from the reward granted to the employee.
- 27. RECORDS. Documents relating to drug testing are kept confidential and retained in Human Resources separately from the employee's personnel records. Such records are not public records.

**ADMINISTRATIVE REPEAL**

The provisions contained herein supersede and replace all prior Administrative policies on Drug-Free Workplace including but not limited to 06.01.01 "Drug Free Workplace" dated July 17, 1991, January 1, 1994, January 1, 1996, August 1, 1997 and January 1, 2003.

**APPROVAL**

City Manager	<u>Michael S. Levinson</u>
Human Resources	<u>Susan L. Grant</u>