

Chapter 16

DRUG AND ALCOHOL ABUSE POLICY

[HISTORY: Adopted by the Mayor and Council of the City of Seat Pleasant 2-14-1996 as Ord. No. 94-03. Amendments noted where applicable.]

ARTICLE I Policy and Procedures for General Employees

§ 16-1. Purpose.

It is recognized that city employees are not immune from the problem which faces society in general. The problems of drug and alcohol abuse have become widespread throughout our community and nation. While the city does not have reason to believe that any employee is abusing alcohol or drugs, the only effective means of avoiding potential problems is through a comprehensive policy directed against alcohol and drug abuse by employees. The purpose of the policy is to reduce and hopefully eliminate drug and alcohol abuse by employees. The policy for off-duty problems is intended to be corrective rather than punitive in application. Employees found to have an off-duty alcohol or drug abuse problem will be given an opportunity for rehabilitation before disciplinary action is imposed. The primary objective of the policy is to provide a safe and healthful work environment for all employees, and thereby provide the highest level of service to the public.

§ 16-2. Definition.

As used in this Article, the following terms shall have the meanings indicated:

ALCOHOL ABUSE — The ingestion of alcohol or alcoholic beverages, on or off duty, which adversely affects employee's judgment, performance and overall well being.

DRUG ABUSE — The ingestion of any controlled substance, as defined in Title 18 of the United States Code and Article 27 of the Maryland Annotated Code, not pursuant to a lawful prescription. The term "drug abuse" also includes the commission of any act prohibited by Title 18 of the United States Code and Article 27 of the Maryland Annotated Code.

ILLEGAL DRUGS — Any controlled substance, as defined in Title 18 of the United States Code and Article 27 of the Maryland Annotated Code, not possessed or taken in accordance with a lawful prescription. The possession, use or being under the influence of "illegal drugs" on or off duty is strictly prohibited.

§ 16-3. Physical fitness and examinations.

- A. Every applicant for employment with the city (including applicants for full-time, part-time and volunteer positions), and each re-employed employee may be required to present proof that he or she is physically fit to perform the duties of the job which the applicant or reemployed employee seeks. Applicants for employment

shall be required to take a physical examination, including blood and/or urine tests for the presence of alcohol and/or illegal drugs. Applicants for employment whose blood or urine is found to contain the presence of illegal urine shall not be considered fit to perform the duties of the job which the applicant seeks. The physical examination shall be completed prior to the applicant's entry on the job.

- B. All city employees by position classification within each Department, including managerial and supervisory employees, may be required to take an annual physical examination at such times as may be specified within the calendar quarter in which the employee's anniversary date occurs.
- C. Any such annual physical examinations taken by the city employees shall include a blood/urine test for the presence of illegal drugs and/or alcohol.
- D. The city may also require an employee to take a physical examination that shall include a urine/blood test for the presence of illegal drugs and/or alcohol, at any time the City Administrator or a department head reasonably suspects that the employee is not physically or medically fit to perform his or her duties, provided that no such test shall be required, whenever reasonably possible, unless two persons corroborate the reasonable suspicion.
- E. Furthermore, the city may require an employee to take a physical examination and/or give a urine and/or blood specimen for testing whenever the City Administrator or a department head or other supervisory employee has a reasonable suspicion that the employee has been on duty or has reported for duty under the influence of alcohol or illegal drugs, provided that no such test shall be required, whenever reasonably possible, unless two persons corroborate the reasonable suspicion.
- F. The city will pay the cost of any physical examinations and test required by this policy. Physical examinations and/or blood/urine specimen will normally be obtained while the employee is on duty. If the employee is required to submit to the examinations or testing or await test results, other than during normal duty hours, the physical examinations and test will be performed by medical personnel selected by the city. Employees who take a physical examination or blood/urine test in accordance with this policy shall be required to sign an authorization releasing the records of such examinations and tests to the city. The city shall maintain the confidentiality of such employee medical records to the extent permitted by law.
- G. Prior to the time an employee is actually taken to the examination testing facility, said employee shall be permitted to contact a person of his/her choosing by telephone. An employee's failure or refusal to take physical examination or give a urine or blood specimen in accordance with this policy will be cause for discipline up to and including discharge.
- H. The city will, to the extent permitted by law, endeavor to keep the results of any testing required by the city confidential. Furthermore, any results of positive testing which are later refuted and accepted by the city shall have affixed thereto the subsequent refutation.

§ 16-4. Blood/urine test for presence of alcohol and drugs.

- A. In testing for the presence of alcohol, the city shall utilize a generally accepted blood test procedure which produces quantitative results showing the amount of alcohol present in the blood. An employee is required to provide two specimens at the time of collection in order to facilitate the testing procedures described herein.
- B. When such tests are performed, the threshold level for determination of an employee being under the influence of alcohol shall be ten-hundredths percent (.10%) or more by weight of alcohol in the blood sample tested. For illegal drugs, the threshold level or cutoff limit shall be established in accordance with generally accepted medical procedures.
- C. In testing for the presence of illegal drugs, the city shall submit the first specimen for testing, using an immunochemical assay or radioimmunoassay test on the employee's urine. If the initial test is positive for an illegal drug, the same urine specimen shall be subjected to a further (confirmatory) test using the gas chromatography/mass spectrometry method (GC/MS) for verification.
- D. For nonprobationary employees, if both the initial and verification (confirmatory) tests are positive for an illegal drug, the city shall notify the employee of the test results. In order to timely provide such notification, the employee shall be required to contact, by telephone or in person, a city representative designated in advance by the city, not later than one hour after a date and time specifically given to the employee for his/her requirement to contact a designated city representative, and the employee must decide whether or not he/she wishes the second specimen provided at the initial collection to be further tested by the city. If the employee so requests, then this second specimen shall be tested by the city utilizing medical personnel different from that used by the city for the initial test. If the employee fails to contact the city representative within the timeframe set forth above, or the employee does not request the testing of the second specimen, or if the employee does request the testing of the second specimen and it also tests positive for an illegal drug, rehabilitative/corrective action shall be taken as specified below.

§ 16-5. Post-testing rehabilitative/corrective action.

- A. Applicants for employment whose urine is found to contain the presence of illegal drugs shall not be considered fit to perform the duties of the job which the applicant seeks.
- B. Probationary employees whose blood or urine is found to contain the presence of illegal drugs, or who have been found to have possessed, used or been under the influence of illegal drugs or alcohol while on duty, shall be discharged.
- C. Any nonprobationary employee found to have used or been under the influence of illegal drugs, or under the influence of alcohol while on duty shall be subject to disciplinary action, up to and including dismissal.
- D. A nonprobationary employee whose blood or urine is found to contain the presence of illegal drugs, or who is found to have engaged in alcohol abuse, may be placed

on a leave of absence without pay for a period of up to 60 days. The leave of absence may be extended by the City Administrator for good cause shown. The employee may use any accumulated sick leave or vacation during the leave of absence to give the employee an opportunity to rehabilitate himself or herself from abusing alcohol and/or illegal drugs. The city may assist the employee in locating an appropriate program of rehabilitation. Upon the successful completion of the rehabilitation program as certified by the city, the employee, subject to the requirements below, shall be returned to city employment in the same or similar position to the one which the employee occupied before his or her leave of absence. Prior to resuming employment with the city, the employee shall be required to take a physical examination which shall include a blood and/or urine test for the presence of alcohol and/or illegal drugs. The returning employee shall be placed on probationary status for a period of one year following his/her return to city employment. During the one year probationary period, the city may require the employee to take unannounced blood and/or urine tests for the presence of alcohol and/or illegal drugs. If at any time during the probationary period the employee's blood or urine is found to contain the presence of alcohol or illegal drugs, utilizing the double testing procedures set forth in the procedures section, § 16-4 above, the employee shall be subject to disciplinary action, up to and including dismissal.

ARTICLE II

Policy and Procedures for Law Enforcement and Public Safety Personnel

§ 16-6. Applicability and purpose.

- A. The policy below is designed for the special considerations attendant to municipal law enforcement and public safety personnel.
- B. Purpose. Effective February 14, 1994, the city will institute a comprehensive policy on drug and alcohol abuse for all law enforcement and public safety personnel. The city recognizes that law enforcement and Public Safety personnel are not immune from problems that confront society in general. The problems of drug and alcohol abuse are widespread throughout our community and nation. In the face of these problems, it is critical that the city maintain a working environment free from alcohol and drug abuse. The primary objective of this policy is to provide a safe and healthful work environment for all employees and thereby provide the highest level of service to the public.

§ 16-7. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

ALCOHOL ABUSE — The ingestion of alcohol or alcoholic beverages, on or off duty, which adversely affects the employee's ability to perform his or her job duties. The use or being under the influence of alcohol or alcoholic beverages on the job by law enforcement and public safety personnel is strictly prohibited.

DRUG ABUSE — The ingestion of any controlled substance, as defined in Title 18 of the United States Code and Article 27 of the Maryland Annotated Code, not pursuant to a lawful prescription. The term "drug abuse" also includes the commission of any act

prohibited by Title 18 of the United States Code and Article 27 of the Annotated Code of Maryland.

ILLEGAL DRUGS — Any controlled substance, as defined in Title 18 of the United States Code and Article 27 of the Annotated Code of Maryland, not possessed or taken in accordance with lawful prescription. The possession, use or being under the influence of "illegal drugs" by-law enforcement and public safety personnel on or off duty is strictly prohibited.

§ 16-8. Physical fitness and examinations.

- A. Every applicant for law enforcement and public safety employment (including applications for full-time, part-time and volunteer positions) may be required to present proof that he/she is physically fit to perform duties of the job which the applicant seeks. Applicants for employment may be required to take a physical examination, including blood or urine tests for the presence of illegal drugs. Applicants for employment whose blood or urine is found to contain the presence of illegal drugs shall not be considered fit to perform the duties of the job which the applicant seeks. The physical examination shall be completed prior to the applicant's entry on the job.
- B. All law enforcement and public safety personnel, including managerial and supervisory employees, shall take a physical examination annually at such times as may be specified in advance by the city.
- C. The annual physical examination shall include a blood/urine test for the presence of illegal drugs and alcohol.
- D. All employees are subject to certification by the Maryland State Police Training Commission, and the city shall annually meet statutory and regulatory physical and medical requirements for initial certification.
- E. The city may also require an employee to take a physical examination that shall include a blood/urine test for the presence of illegal drugs or alcohol, at any time the City Administrator or Chief reasonably believes that the employee is not physically or medically fit to perform his or her duties.
- F. The city may require an employee to take a physical examination and/or give a urine or blood specimen for testing whenever the City Administrator, Chief or other supervisory employee has a reasonable or founded suspicion to believe that the employee has been on duty or has reported for duty under the influence of alcohol or illegal drugs.
- G. The use of illegal drugs on or off duty by law enforcement and public safety personnel is strictly prohibited. The city may require an employee to take a physical examination and/or give a urine or blood specimen for testing whenever the city employee has a reasonable or founded suspicion to believe that said employee is using illegal drugs.

- H. A reasonable or founded suspicion is a suspicion which is based on fact derived from the surrounding circumstances from which it is reasonable to infer that further investigation is warranted.
- I. The city will pay the cost of physical examinations and tests required by this policy. The examination will be performed by medical personnel authorized by the city. Employees who take a physical examination or blood/urine test in accordance with this policy shall be required to sign an authorization releasing the records of such examinations and tests to the city. The city shall strictly observe and maintain the confidentiality of such employee medical records to the extent permitted by law.
- J. An employee's failure or refusal to take a physical examination, give a urine/blood specimen(s) or sign an authorization for release of records in accordance with this policy will be cause for discipline up to and including discharge.

§ 16-9. Blood/urine test for presence of alcohol and drugs.

- A. In testing for the presence of alcohol, the city shall utilize a generally accepted blood test procedure which produces quantitative results showing the amount of alcohol present in the blood. When such tests are performed, the threshold level for determination of an employee being under the influence of alcohol shall be ten-hundredths percent (.10%) or more by weight of alcohol in the blood sample tested.
- B. In testing for the presence of illegal drugs, the city shall in the first instance utilize an immunochemical assay or radioimmunoassay test on the employee's urine. If the initial test is positive for an illegal drug, the same urine specimen shall be subjected to a further confirmatory test using the gas chromatography, thin-layer chromatography or gas chromatography/mass spectrometry method for verification.
- C. For probationary employees, if both the initial and confirmatory test are positive for an illegal drug, the employee shall be terminated. For nonprobationary employees, if both the initial and confirmatory test are positive for an illegal drug, the employee shall be so notified by the city as soon as practicable after the test results are known. In order to timely provide such notification, the employee shall be required to contact, by telephone or in person, a city representative designated in advance by the city, not later than one hour after a date and time specifically given to the employee for his/her requirement to contact a designated city representative by telephone. At the time the employee makes such contact, the employee must decide whether or not he/she wishes the second set of specimens provided at the initial collection to be further tested by the city. If the employee so requests, then this second set of specimens shall be tested by the city, utilizing medical personnel different from that used by the city for the initial test. If the employee fails to contact the city representative within the time frame set forth above, or the employee does not request the testing of the second set of specimens, or if the employee does request the testing of the second set of specimens and it also tests positive for an illegal drug or alcohol, corrective action shall be taken as specified below.

§ 16-10. Corrective action.

- A. Applicants for employment whose blood or urine is found to contain the presence of illegal drugs shall not be considered fit to perform the duties of the job which the applicant seeks.
- B. Employees (probationary and non-probationary) whose blood or urine is found to contain the presence of illegal drugs, or who have been found to have used or been under the influence of illegal drugs or alcohol while on duty, shall be terminated.
- C. Any nonprobationary employee who is found to have engaged in off-duty alcohol abuse which adversely affects the employee's ability to perform job duties may be placed on a leave of absence without pay for a period of up to 60 days. The leave of absence may be extended for good cause, by the City Administrator, up to an additional 15 days. The employee may use an accumulated sick leave or vacation during the leave of absence. The purpose of the leave of absence is to give the employee an opportunity to rehabilitated himself or herself from abusing alcohol. The city may assist the employee in locating an appropriate program of rehabilitation.
- D. Upon the successful completion of the rehabilitation program, as certified by a physician designated by the city, the employee shall be eligible to return to city employment in the same or similar position to the one which the employee occupied before his or her leave of absence. Prior to resuming employment with the city, the employee shall be required to take a physical examination which shall include a blood or urine test for the presence of alcohol and/or illegal drugs. The returning employee shall be placed on probationary status for a period of one year following his/her return to city employment. During the one year probationary period, the city may require the employee to take unannounced blood or urine tests for the presence of alcohol and/or illegal drugs. If at any time during the probationary period or thereafter the employee's blood or urine is found to contain the presence of alcohol or illegal drugs, the employee shall be subject to disciplinary action, up to and including termination.