

CITY OF YREKA
PERSONNEL POLICY AND PROCEDURE

ALCOHOL AND DRUG-FREE WORKPLACE POLICY

PURPOSE AND INTENT

Employees and the City have a mutual obligation to ensure a safe and healthy work environment, and to perform work for the public safely, effectively, and efficiently. This policy is instituted to ensure that the workplace be free of employees whose job performance may be impaired by the abuse of drugs, controlled substances and/or alcohol. Specific departmental policies cannot violate this policy unless required by State or Federal Law. The City of Yreka has a zero tolerance policy for drug and alcohol abuse in the workplace.

The City recognizes that drug and alcohol abuse may be considered treatable illnesses and, to the extent possible, the response to these illnesses may be treatment and rehabilitation. Employees are encouraged to seek assistance prior to an incident that would lead to disciplinary action.

It is recognized that when employees have placed themselves in a situation where their ability to perform their jobs is impaired by drugs or alcohol, that it is the responsibility of the City to remove such employees from the work environment to prevent the endangerment of the employee, fellow employees, and/or the public.

It is also the intent of this policy to comply with the Drug-Free Workplace Act of 1988 as set forth in Section 701, Chapter 10, Title 41 of the U.S. Code. It is also the intent of this policy to comply with the provisions of 49 CFR 382.601, the Department of Transportation regulations regarding a drug and alcohol testing program, and the City Policy regarding Driver Alcohol and Drug Abuse is incorporated to this policy. The City has a contractual relationship with Onarheim Services for this testing program.

The City recognizes employee concerns of personal privacy and that drug or alcohol testing shall be used only in cases where questions of impaired job performance are involved unless otherwise required by law. Adverse action against an employee for off-duty conduct shall not be taken unless such conduct directly impairs the employee's on-the-job performance.

PROHIBITED SUBSTANCES

The unlawful manufacture, distribution, dispensation, possession, or use of a drug, controlled substance, or alcohol by an employee in the workplace or while the employee is on duty or standby, or anywhere within the City of Yreka's facilities, on the City's properties or in its vehicles is prohibited.

Drugs shall be defined as those substances whose dissemination is regulated by law, including but not limited to narcotics, depressants, stimulants, hallucinogens, cannabis, and alcohol. This definition shall include over-the-counter drugs and/or drugs that require a prescription or other written approval from a licensed physician or dentist for their use. Recommended use of

medically prescribed drugs is not a violation of this policy if directions are followed properly and no abuse is present. Employees must notify their supervisor before beginning work when taking recommended prescription drugs which may interfere with the safe and effective performance of their duties. However, in order to maintain confidentiality, employees are not required to specify the drug, type of drug or their health condition, but the City may require an opinion from the employees' physician regarding the employees' ability to perform their usual duties.

Procedures regarding Search of City property, Employee property for the Purpose of Detecting Alcohol or Illegal Drugs or Substances.

- (a) The City reserves the right to search, without employee consent, all areas and property in which the City maintains full control for the purposes of detecting alcohol or illegal drugs or substances. Areas in which the City maintains full control include but are not limited to all City owned properties and buildings and City owned and/or leased equipment and vehicles.
- (b) The City reserves the right to search, without employee consent but with probable cause, all areas and property in which the City maintains joint control with the employee for the purposes of detecting alcohol or illegal drugs or substances. Areas jointly controlled by the City and the employee include but are not limited to desks, lockers, file cabinets, office cabinets, and bookshelves. The City may notify the appropriate law enforcement agency if it is believed that an employee may have illegal drugs in his or her possession.
- (c) In instances described in sections b above, the City will permit the employee to have a representative present, who shall not interfere with the search.

PROCEDURE REGARDING POSSESSION OF ALCOHOL OR ILLEGAL DRUGS:

1. If an employee knows of possession or use of alcohol or illegal drugs by employees at work, the employee is required to discuss the questions, problems, complaints, or reports with his or her immediate supervisor. If the employee feels uncomfortable doing so, or if the supervisor is the source of the problem, condones the problem, or ignores the problem, or is unavailable, the employee shall report to the supervisor's supervisor. If neither of these alternatives are satisfactory to the employee, then he or she can direct questions, problems, complaints, or reports to the City Manager. An employee is not required to directly confront the person who is the source of the report, question, or complaint before notifying any of those individuals listed.
2. Employees are forbidden to sell or make other transactions involving illegal drugs during work or on City of Yreka facilities, properties, or in its vehicles. Violators may be subject to immediate disciplinary action, including, but not limited to, termination. Any sale of illegal drugs during work or on the City's premises, facilities, or in City vehicles will be treated as gross misconduct, punishable by immediate discharge for the first offense.

PROCEDURE REGARDING USE OF ALCOHOL OR ILLEGAL DRUGS:

1. In the event there is probable cause to believe that an employee's job performance may be impaired by drugs or alcohol, the employee's supervisor shall question the employee with regard to the behavior. The supervisor shall directly observe the employee's behavior and

document the behavior. Indications of impaired behavior may include but are not limited to the following: staggering or irregular gait, the odor of alcohol on the breath, slurred speech, dilated or constricted pupils, inattentiveness, listlessness, hyperactivity, performance problems, illogical speech and thought processes, poor judgment, possession of alcohol or drugs, or any unusual or abnormal behavior.

2. When possible, a second managerial employee shall also observe the employee to verify that there is probable cause to believe that drug or alcohol consumption may be involved. A determination shall be made as to whether or not the employee's behavior is impaired to the point of being unable to perform his or her duties effectively and safely. The employee shall be relieved of his or her duties by a supervisor and placed on suspension in a with pay status until a clear determination can be made as to the abuse or non-abuse of drugs or alcohol.
3. If it is concluded that there is probable cause to believe that drug or alcohol consumption is involved, the supervisor or appropriate manager shall request the employee to remain on the premises for a reasonable period of time until an authorized City representative or law enforcement representative can arrange transport of the employee from the work site to have a drug or alcohol test administered. The test(s) must be conducted within a reasonable time period after the observation of the problem behavior. Refusal to remain on the premises and/or submit immediately to an alcohol and/or drug analysis when directed to do so by City management or law enforcement personnel may constitute insubordination and be grounds for discipline up to and including termination. Employees shall be on a paid status during this process. The employee will also be in a paid status if any part of this process does not occur during the employees' regular work hours. Time on duty after regular hours is subject to overtime rules.
4. If the test is negative, the employee shall be returned to work. There shall be no loss of pay or benefits. If the test is positive the employee may, if they so elect, submit evidence from a qualified physician in rebuttal of any test result, provided that such evidence is submitted within 5 working days from the date the employee is notified of the test result.
5. If the test is positive, the employee may be terminated depending upon the circumstances of the situation. Circumstances that would warrant an immediate termination would include, but not be limited to, incidents where the employee's impairment resulted in or created substantial exposure to loss of life, serious injury to self or others, the substantial loss or damage of property, or an incident of parallel magnitude.
6. An employee who is the subject of an investigation related to substance abuse may have a representative or another employee present during the investigative procedures outlined. Disciplinary actions taken by the City under this procedure shall be subject to the grievance procedures set forth in the Corrective and Disciplinary Action Policy.
7. The City may utilize urine and/or blood tests for verification. The employee shall have the right to select the method of testing, if alternative tests are available. The employee shall have these tests performed at a place of the City's choosing. The City shall be

responsible for transporting the employee to and from these tests. The City shall pay for the costs of all tests and medical examinations carried out under this procedure. The City shall maintain confidentiality of test results to the extent possible.

SUBSTANCE ABUSE TREATMENT

In cases where immediate termination is not warranted but a positive analysis for substances is returned, the employee may be placed on sick leave status. The employee shall be evaluated by a physician who shall recommend appropriate treatment and discipline then may be arranged. Where appropriate, the employee shall be referred to a treatment program agreed upon by the employee and the City. The City encourages and supports the use of treatment programs. Once the in-patient part of the program has been completed, the employee shall be reinstated but only after receipt of a written release from the treatment program including a negative drug test. Where it is prescribed by a physician and/or a treatment program, drug testing may be included as a part of that treatment program. The employee will bear the costs for the drug testing which may be included in any treatment program or return to work plan created pursuant to this policy.

EMPLOYEE RESPONSIBILITIES

An employee must:

1. not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, drug, or alcohol during compensated working hours or while subject to duty on paid stand-by time;
2. not report to work or be subject to duty on paid stand-by time while his or her ability to perform job duties is impaired due to alcohol, substance or drug use;
3. not directly or through a third party unlawfully sell or provide illegal drugs or substances to any person or to any other employee while on City compensated time or while wearing a City uniform;
4. submit immediately to an alcohol and/or drug analysis when requested by a manager or supervisor in accordance with this policy;
5. notify his or her supervisor before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City equipment;
6. notify the employee's supervisor of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 working days after such conviction.

CITY AND SUPERVISORY RESPONSIBILITIES

1. Managers and supervisors are responsible for consistent enforcement of this policy.

2. It shall be the responsibility of supervisors at every level to encourage employees to seek professional assistance when deteriorating or unsatisfactory job performance does not respond to usual supervisory actions, or when a specific on-the-job incident is cause for concern.
3. Managers or supervisors shall request that an employee submit to a drug and/or alcohol analysis when a probable objective basis exists that supports that an employee may be intoxicated or under the influence of drugs or alcohol.
4. Any manager or supervisor requesting that an employee submit to a drug and/or alcohol analysis shall, within 24 hours, document in writing all the facts constituting probable cause that the employee in question may be intoxicated or under the influence of drugs.
5. Managers and supervisors must deal with suspected offenders as discreetly, inconspicuously, and confidentially as possible.
6. Managers and supervisors shall notify the appropriate law enforcement agency when they have probable cause to believe that an employee may have illegal drugs in his or her possession or in areas not jointly or fully controlled by the City. Managers and supervisors shall not physically search employees, but shall require that they remain on the premises until lawful authority for searching is obtained.
7. Demands for drug or alcohol analysis by supervisors or managers, which are determined to be malicious will not be tolerated and may subject the directing individual to disciplinary action.
8. The City Manager shall implement a Drug-Free Awareness program for all City employees to inform the employees of the following:
 - (a) Dangers of drug and alcohol abuse in the workplace.
 - (b) The City's policy of maintaining a drug-free workplace.
 - (c) Any available drug counseling, rehabilitation, and employee assistance programs.
 - (d) The penalties that may be imposed upon employees for drug abuse violations.
9. City and supervisors shall provide that all current or new employees of the City be given a copy of this policy.
10. As to any employee notifying the City of a conviction of a violation occurring in the workplace, the City shall, within 10-days after receiving such notice, notify the contracting agency as required by 41 U.S. Code 701. Discipline or participation in any assistance or rehabilitation programs as to any such employee shall be in accordance with 41 U.S. Code 703.

PRE-EMPLOYMENT PHYSICALS:

All applicants for employment with the City of Yreka are subject to drug/alcohol screening during pre-employment physicals.

1. A positive result from a drug and/or alcohol analysis may result in postponement or denial of an applicant's appointment where the applicant's use of alcohol and/or drugs violate requisite job standards or could impede performance of duties or responsibilities.

2. If a drug screen is positive at the physical, the applicant must provide bona fide verification of a current prescription for the drug identified in the drug screen within 24-hours after being informed of the test results, unless geographical restrictions prevent it. Further, the applicant must provide a prescription in his or her own name. Should geographical restrictions prevent local testing and/or local verification of prescription, these same requirements must be on record as having been confirmed within 24 hours at similarly licensed office(s) at or near the individuals geographic location. The applicant is eliminated from the selection process if the requirements of this paragraph cannot be met.