

THE CITY of DeFUNIAK SPRINGS



DRUG FREE WORKPLACE POLICY

Adopted February 22, 2010

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THE CITY of DeFUNIAK SPRINGS

**DRUG FREE WORKPLACE
POLICY**

I. STATEMENT OF POLICY

The City of DeFuniak Springs, herein known as “City”, strives to provide a safe work environment and to encourage personal health. In this regard, the City believes the abuse of drugs and alcohol on the job to be an unsafe counter-productive work practice. Furthermore, substance abuse is believed to be a serious threat to our employees, customers and to our goals and mission. With this in mind, the following policy is established with regard to the use, possession, and sale of illegal drugs and alcohol at work.

- ❖ A job applicant applying for a position within the City who refuses or fails a pre-employment drug test will not be hired.
- ❖ An employee who refuses or fails a drug test may be subject to disciplinary action in accordance with the City Personnel Policy up to and including termination.
- ❖ An employee found with the presence of illegal drugs and/or alcohol in his/her system; in possession of, using, selling, trading, or offering for sale illegal drugs and/or alcohol during working hours, at city functions, or on any city property (*including parking lots and rights of way*); and/or reporting to work under the influence of alcohol or with illegal drugs in an employee’s system, shall be subject to disciplinary action, in accordance with the City Personnel Policy up to and including termination.

Employees must be in compliance with all federal drug laws and the *Federal Controlled Substance Act*. (See attached)

Drugs prescribed by an employee's physician may be taken during work hours. The employee must notify their supervisor if the use of properly prescribed medication will affect the employee's work performance. Abuse of prescription drugs will not be tolerated.

Any and all information gathered, regarding an employee, as a result of the drug testing program is confidential and may not be disclosed except in accordance with procedures allowed under the Federal/State Statute, professional licensing regulations, or City policy.

As a condition of employment, all employees must abide by the terms of this policy.

The City reserves the right to change the provisions of this policy and testing program at any time in the future.

C. Harold Carpenter, Mayor

Adopted by the City Council

Attest.....

Kim Kirby, City Manager

II. DEFINITIONS

AHCA – State of Florida’s *Agency for Health Care Administration*.

Detectable Amount – Thresholds established by *DHHS* and or *AHCA* for screening and confirmation.

DHHS – Federal government’s *Department of Health & Human Services*.

Employee – An individual who is employed by the City of DeFuniak Springs in any capacity.

Illegal Drug – Any drug which: (a) is not legally obtainable; (b) may be legally obtainable but has not been legally obtained; or (c) is being used in a manner or for a purpose other than as prescribed.

Job Applicant - A person who has applied for a position with the City of DeFuniak Springs.

Legal Drug - Prescribed drugs and over-the-counter (*OTC*) drugs which have been legally obtained and are being used solely for the purpose for which they were prescribed or manufactured. Written confirmation from the prescribing physician is required when the Medical Review Officer must determine the legitimate medical reason for the prescription.

Medical Review Officer (MRO) – A licensed physician (*medical doctor or doctor of osteopath*) responsible for receiving laboratory results generated by an employer's drug testing program. The *MRO* must have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test, medical history, and other relevant biomedical information.

Shy bladder - An inability to produce an adequate urine sample within three (3) hours after consuming 40 ounces of fluids.

Shy lung – The inability to provide a sufficient amount of breath for a test. After unsuccessful attempts employee will be referred to a physician.

Unfit for Duty – Any worker who is unable to perform his/her assigned duties with reasonable skill and safety due to physical, emotional, or chemical impairment.

III. EMPLOYEE/APPLICANT RESPONSIBILITIES AND RIGHTS

A Employee Responsibilities

1. As a condition of employment, employees must abide by the terms of this policy.
2. An employee must notify the City Manager if they have any violation of an illegal drug crime, no later than five calendar days after such a conviction.
3. An employee must, immediately upon reporting for work, notify his/her supervisor that his/her drug or medication may affect or impair his/her judgment or job performance, or safety.
4. An employee or job applicant must notify the City Manager of any administrative or civil action planned as a result of a positive test within five working days from receipt of notification.

B Employee/Applicant Rights

1. An employee/applicant has the right to contest or explain the result, in writing, to the *MRO* within five (5) working days of receipt of the written positive test results.
2. An employee/applicant can request, in writing from the City Manager, within seven (7) days, a written report regarding the circumstances that formed the basis for a reasonable suspicion testing.

C Drugs That May Be Tested

Drugs are listed by chemical name and brand or common name:

1. *Alcohol*: ethanol, beer, wine, booze, alley juice, fire water, grog, hooch, rocket fuel
2. *Amphetamines*: methamphetamine, amp, cinnamon, lemon drop, trash, tweak, crystal, crank, biphетamine, desoxyn, dexedrine, speed
3. *Cannabinoids*: marijuana, blunt, columbo, hash, hay, pot, joint, indo, roach, grass, weed, reefer
4. *Cocaine*: coke, blast, flake, railers, ringer, toot, blow, nose candy, snow, crack, rock
5. *Phencyclidine*: PCP, angel dust, LSD, beast, blaze, Superman, tab, trips, hog
6. *Opiates*: opium, codeine, morphine, heroin, dover's powder, paregoric, parepectolin, school boy, smack, tar, chasing the tiger
7. *Barbiturates*: phenobarbital, tuinal, amytal, barbs, downers, tranqs
8. *Benzodiazepines*: bennies, rophies, ativan, azene, clonopin, dalmane, diazepam, halcion, librium, poxipam, remestan, serax, tranxene, valium, veratrine, vivol, xanax
9. *Methadone*: dolophine, methadose, amidone, fizzies
10. *Propoxyphene*: darvocet, darvon N, dolene, novopropoxyn

IV. POLICY AND WORK RULES

The City's policy is to employ a workforce free from the use of illegal drugs, either on or off the job, and the abuse of alcohol in the workplace. Any employee determined to be in violation of this policy is subject to disciplinary action up to and including termination.

Refusal to take a drug or alcohol test may result in the employee forfeiting his or her eligibility for medical and indemnity benefits under ¹*State Workers Compensation* and is cause for automatic termination of employment which may also result in denial of unemployment compensation.

A. General Procedures

An applicant who is offered a position with the City will be required to report to the specified collection site within eight (8) hours of being notified.

An employee must report immediately to the specified collection site to provide a specimen for testing upon notification that a drug test is required.

An employee will be subject to surveillance until testing (collection) has been completed.

An employee reporting for work visibly impaired and unable to properly and safely perform their required duties will not be allowed to work, as determined by a Supervisor who has completed a training program on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use and/or alcohol misuse.

An employee who returns to work after an extended leave of absence of six (6) months or longer may be required to take a drug test.

B. Initial Test

The initial screen for all drugs except alcohol shall use an immunoassay. For alcohol the initial test may be the enzyme oxidation methodology. The following thresholds shall be used when first screening specimens to find whether they are negative or need to be tested further with the *GC/MS (gas chromatography /mass spectrometry)* test. All levels equal to or exceeding the following shall be reported as positive:

Alcohol	0.04%
Amphetamines	1000 ng/ml
Cannabinoids	50 ng/ml
Cocaine	300 ng/ml
Phencyclidine	25 ng/ml
Opiates	2,000 ng/ml
Barbiturates	300 ng/ml
Benzodiazepine	300 ng/ml
Synthetic Narcotics:	
Methadone	300 ng/ml
Propoxyphene	300 ng/ml

These thresholds may change without notice.

¹ Florida Rule 38F-9.001 (2)(a)(WC Act 440.102 (5))

C. Confirmation Test

A positive finding on the initial test will generate a second confirmation test through the *gas chromatography/mass spectrometry (GC/MS)* method of testing. A copy of any positive can be received by the employee/applicant by submitting his/her request in writing to the City Manager. The current *GC/MS* thresholds are as follows:

Alcohol	0.04%
Amphetamines	500 ng/ml
Cannabinoids	15 ng/ml
Cocaine	150 ng/ml
Phencyclidine	25 ng/ml
Opiates	2,000 ng/ml
Barbiturates	200 ng/ml
Benzodiazepine	300 ng/ml
Synthetic Narcotics:	
Methadone	300 ng/ml
Propoxyphene	300 ng/ml

These thresholds may change without notice.

D. Types of Drug Testing

Pre-Employment Drug Screening

Consistent with the City's policy opposing drug abuse and our commitment to a safe working environment, all applicants who have been offered a job will undergo screening for the presence of illegal drugs as a condition of employment. Applicants will be required to voluntarily submit to a urinalysis test at the specified collection site after signing a consent and release form.

The City will not discriminate against applicants for employment because of past substance abuse. It is the current abuse of drugs that impairs or prevents an employee from properly performing their job that will not be tolerated.

All testing will be done by a *DHHS (US Department of Health & Human Services)* and/or *AHCA (Florida Agency for Health Care Administration)* certified lab. Positive test results will be verified by an *MRO*, to assure accuracy. All testing, sample collection, storage, handling and chain of custody will be done in accordance with the State/Federal rules and regulations.

Post-Accident Testing

1. An employee who is involved in an accident as defined by the *Pipeline and Hazardous Materials Safety Administration (PHMSA)* while performing a covered function will comply with either the City of DeFuniak Drug and Alcohol Policy, or PHMSA guidelines, whichever has the higher (more stringent) standard of compliance.
2. An employee who is involved in an accident while performing their job duties, driving a city vehicle, or operating equipment will be required to take a drug and/or alcohol test. If the employee is injured, the test will not be done without the approval of the attending medical provider. In the case of a conscious but hospitalized employee, the hospital or medical facility will be requested to obtain a sample which will be sent to a laboratory licensed by the *DHHS*. If the injured employee is not at a designated collection site, the employee shall be transported to one as soon as it is medically feasible where specimens shall be obtained.
3. An employee who is involved in an on-the-job injury that requires medical attention will be required to take a drug and/or alcohol test. If the employee is injured, the test will not be done without the approval of the attending medical provider. In the case of a conscious but hospitalized employee the hospital or medical facility will be requested to obtain a sample which will be sent to a laboratory licensed by the *DHHS*. If the injured employee is not at a designated collection site, the employee shall be transported to one as soon as it is medically feasible where specimens shall be obtained.

Employees must submit to a post-accident drug test within thirty-two (32) hours of an incident requiring testing.

Employees must submit to a post-accident alcohol test within two (2) hours of an incident requiring testing. If it cannot be done within eight (8) hours, testing should not be sought.

Reasonable Suspicion Testing

1. It is a condition of employment for all employees to refrain from reporting to work, or working with, the presence of drugs or alcohol in his or her body.
2. It is also a condition of employment for employees to report to work without the presence of drugs or alcohol in his/her body, that could affect or impair his/her judgment, job performance, or safety.
3. When there is reasonable suspicion that an employee covered by this policy is using a prohibited drug or alcohol, the employee will be required to take a drug test, as a condition of continued employment.
4. A decision to test must be based on specific contemporaneous physical, behavioral, or performance indicator of probable drug or alcohol use. For example:
 - a. Observed drug use during work hours on City premises
 - b. Observable physical signs of impairment
 - c. Incoherent mental state
 - d. Marked changes in personal behavior that are otherwise unexplainable
 - e. Diminished work performance that is otherwise unexplainable
 - f. Accidents or other actions that provide reasonable cause to believe the employee may be under the influence
5. A decision to test must be determined by a supervisor who has completed a training program on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use and/or alcohol misuse.
6. If tested, the employee must be accompanied by a supervisor or a supervisor's designee to a collection site to be tested. The employee should not be allowed to drive to or from the collection site.
7. Upon written request by the employee to the supervisor, the supervisor will provide an employee a written report regarding the circumstances that formed the basis for reasonable suspicion. The original and signed report will be maintained in the employee's personnel file for one year. Information regarding a positive test must be maintained in the employee's confidential personnel file for five years.

Random Testing

It is a condition of employment for all employees to refrain from reporting to work, or working with, the presence of drugs or alcohol in his or her body.

It is also a condition of employment for employees to report to work without the presence of drugs or alcohol in his/her body, that could affect or impair his/her judgment, job performance, or safety.

Random testing is to deter prohibited drug use and to ensure a Drug Free Workforce. Employees will be required to take a random drug test, as a condition of continued employment.

1. Testing Requirements:

a. Florida Department of Transportation (FDOT):

- i. Twenty-five percent (25%) of pipeline employees will be urine tested per calendar year.
- ii. Fifty percent (50%) of CDL drivers will be urine tested per calendar year.
- iii. Ten percent (10%) of CDL drivers will be breath alcohol tested per calendar year.

b. City of DeFuniak Springs:

- i. Twenty-five percent (25%) of employees, not randomly selected as described (a.) above, will be urine tested per calendar year.

2. Testing Process:

- a. An employee will remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.
- b. An employee will be selected for testing by using a computer-based random number generator or equivalent random selection method that is matched with an employee's social security number or employee ID number.
- c. An employee will be notified they have been selected for testing after they have reported for duty on the day of collection, and no more than 30 minutes prior to the time they are scheduled for testing. The process will be random and unannounced.
- d. An employee will be selected for random testing based on the number of covered employees at the time and the necessary testing percentage as describe (1. Testing Requirements) above.
- e. Specimen collection will be conducted on different days of the week throughout the annual cycle to prevent employees from matching drug use patterns to the schedule for collection.

3. Testing Procedures:

- a. Within the City's procedure, the Drug and Alcohol Program – Third Party Administrator (appendix A), will use random selection procedures to compile a list of covered employees selected for random testing during that testing cycle.
- b. A list of social security numbers or employee identification numbers will identify the correct employees who are to be randomly tested during the testing cycle. The random list will be collected from the web site of the Third Party Administrator by the City Manager or his/her designee.

- c. Should the City Manager's name or his/her designee's name appear on the random list to be tested, he/she must report to the designated testing facility within 30 minutes of receiving the list. Failure to report will constitute a refusal and will therefore be considered a positive test.

4. Testing Notification:

- a. An employee will be notified by their supervisor when they are to be randomly tested within the reporting period.
- b. An employee will not be notified of the random test until after reporting for duty.
- c. An employee shall report immediately to the designated collection site, within 30 minutes including travel time, once notified by their supervisor.

Return to Duty Testing (Follow-up)

An employee, who returns to work following a positive test and has satisfied the "*Positive Test Procedures*" in *Section G*, may be given unannounced and random drug and/or alcohol tests, as a condition of continued employment.

Routine Fitness for Duty

An employee must submit to a drug test if the test is conducted as a part of a routinely scheduled employee fitness-for-duty medical examination that is part of an established policy or that is scheduled routinely for all members of an employment classification or group.

E. Testing Procedures

All drug and alcohol testing is conducted by a *DHHS* and/or a state certified lab unless there are medical implications that would prevent an employee from being tested at an approved lab. See appendix A.

Test results both positive and negative will be verified by a *MRO* to assure accuracy. All testing, sample collection, storage, handling, and chain of custody will be executed in accordance with appropriate State and Federal rules and regulations.

If a test is not completed because of possible tampering or adulteration, a second test, will be requested. The second test may be observed. If a test is rejected because of intentional adulteration - the employee will be terminated.

Within five (5) working days after receipt of a positive confirmed test result, the City Manager, or designee, will inform the employee or applicant of the positive test results. An employee will be advised of the consequences of the results and the options available to the employee, including the right to file an administrative or legal challenge. An applicant will automatically be removed from consideration for employment.

Confidential information pertaining to drug testing and drug testing results will be maintained by the City Manager, or designee, in separate confidential files and only be used for the purposes discussed in this document.

Positive test results will be filed in an employee's confidential personnel file within five (5) working days of receipt of a positive notification.

F. Medical Review Officer

A qualified medical review officer (*MRO*) will review all information concerning a positive test result with the employee/applicant. An employee/applicant may consult with the *MRO* after being tested in order to report any prescription or non-prescription drug use. An employee/applicant is entitled to use a phone in private to consult with the *MRO*.

The City's *Medical Review Officer* is provided by the *Drug and Alcohol Program – Third Party Administrator*. See Appendix A.

G. Positive Test Procedures

Upon notification from *Drug and Alcohol Program – Third Party Administrator* or *MRO*, of a verified positive test, the City Manager has the option of terminating or retaining the employee.

The following are procedures for an employee who has either admitted to a substance abuse problem and requested assistance, or who has tested positive and is being provided an opportunity to be retained as an employee of the City:

1. The employee will be placed on leave of absence (*not to exceed 60 days*) to obtain rehabilitation therapy from a substance abuse counselor. The substance abuse counselor can be seen via the City's Employee Assistance Program, or through a private practice. The employee must sign a release to allow the City Manager or his/her designee, to communicate with the employee's counselor. An employee may use sick hours, annual leave and leave without pay while on leave of absence.
2. The employee must satisfy the requirements of his/her rehabilitation process as prescribed by the substance abuse counselor.
3. The employee must have a negative drug test prior to returning to work.
4. Upon returning to work, the employee will be tested on an unannounced and random basis, as a condition of continued employment.
5. If an employee tests positive a second time, the employee will be terminated from employment by the City.
6. A refusal of a drug or alcohol test is equal to a positive test.

H. Education and Training

Each employee covered by this policy will have access to the following drug and alcohol abuse education.

1. Annual training for substance abuse
2. A list of Substance Abuse Professionals (SAP)
3. Periodic information regarding illegal drug use
4. Contact information for an Employee Assistance Program (EAP)

Each employee covered by this policy will be provided a copy of this Drug Free Work Place Policy.

Supervisors will receive training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use and one hour on alcohol misuse. Any supervisor who has completed this training may determine whether an employee should be drug tested based on reasonable suspicion.

I. Employee Assistance Program (EAP)

The City is aware that many personal or health problems can and do interfere with an employee's ability to perform on the job. These problems may include emotional and mental illness, family and marital stress, abuse of drugs and others.

When seeking assistance from the *EAP*, confidentiality is assured. No information regarding the nature of the personal problem will be made known to the City with one exception: it is a condition of employment following a positive drug or alcohol test. The City will require the employee to sign a release allowing his/her rehabilitation process to be monitored.

Participation in the *EAP*, or another mental health or substance abuse counseling program, will not affect the employee's future career advancement or employment, nor will it protect an employee from disciplinary action for substandard job performance. An *EAP* is a process used in conjunction with discipline, not a substitute for discipline.

The City's *Employee Assistance Program (EAP)* provider is listed in Appendix "A".

J. Grounds for Discipline or Termination

An employee found with the presence of illegal drugs and/or alcohol in his/her system as set forth in *Section C*; purposefully tampering or adulterating a specimen; in possession of, using, consuming, selling, attempting to sell, transfer or trade, or offering for sale any form of illegal drug and/or alcohol during working hours, at city functions, or on any city property (*including parking lots and right of way*); and/or reporting to work under the influence of alcohol or with illegal drugs in an employee's system, and/or at any time during the hours between the beginning and ending of the employee's working day (*See Note*) guilty of misconduct and subject to discipline including termination or suspension without pay from employment, even for the first offense. Failure to submit to any required drug or alcohol testing is considered a refusal to test and is grounds for termination from employment.

1. The City will use the *Federal Department of Transportation* guidelines to determine a refusal to test in the case of *shy bladder* (FMCSA § 40.65(a)(1) and 40.193(b)), or *shy lung* (FMCSA § 40.265).
2. In the case of *shy bladder* or *shy lung*, the employee will have seven (7) working days to secure documentation from their physician establishing the physical condition.
3. In the case of psychological cause, the diagnosis must have been made prior to the test. Diagnosis such as typical anxiety is not acceptable.

Employees tested for reasonable suspicion may be suspended with pay or placed in non-safety sensitive jobs (if available) pending the results of the required test and/or investigation. An employee with a negative result will be reinstated to their normal job duties. A positive test will result in immediate action up to and including termination of employment. Safety sensitive jobs would include, but not be limited to: jobs specific to public health, safety, and welfare; operation of motor vehicles or equipment; tasks required by PHMSA (pipeline operation); or any job deemed to be safety sensitive by the City Manager.

NOTE: The City does not prohibit employees from consuming alcohol responsibly at business functions or company sponsored events where alcohol is served. Employees may not consume alcohol at these functions if they will be returning to work or if they are driving a City vehicle.

V. CONCLUSION

The City's *Drug Free Workplace Policy* is not intended to be abusive, discriminatory or to come into conflict with any public policy. We consider drug testing to be only one of several tools to achieve a safe, healthy, and productive atmosphere for our employees. This policy is available for inspection by employees or applicants during regular business hours.

All individual records of testing and results will be maintained private and confidential. With the exception of the testing laboratory, *MRO*, City Manager, Human Resources, or State agency officials as part of an accident investigation, the results of individual drug tests will not be released to anyone without the expressed written authorization of the individual tested.

This *Drug Free Workplace Policy* is designed to work in accord with the City's *Department of Transportation Drug and Alcohol Policy* that is required by *49 CFR Part 199* and *Part 40*.

The City reserves the right to change the provisions of this policy and testing program at any time in the future without prior notice. This Policy does not constitute a contract for employment with the City.