



CITY OF BIG LAKE

DRUG, ALCOHOL, AND CANNABIS TESTING, AND DRUG-FREE WORKPLACE POLICY FOR NON -COMMERCIAL DRIVERS

Adopted by Big Lake City Council – March 13, 2024

Contents

Purpose and Objectives 3

Persons Subject to Testing and Circumstances Under Which Testing May Be Required 3

Reasonable Suspicion Testing..... 3

Right of Refusal..... 4

Refusal on Religious Grounds 4

Cost of Required Testing..... 4

Prohibition against Drugs and Alcohol..... 4

Review and Notification of Test Results 6

Notification of Negative Test Results 6

Notification of Positive Test Results:..... 6

Right to Provide Information after Receiving Test Results: 6

Right to Confirmatory Retest:..... 6

Consequences for Employees Engaging in Prohibited Conduct..... 7

Non-Discrimination..... 8

City’s Employee Assistance Program 8

Definitions..... 9

City of Big Lake, Minnesota

Drug, Alcohol and Cannabis Testing and Drug-Free Workplace Act Policy for Non-Commercial Drivers (Non-DOT)

Purpose and Objectives

The City of Big Lake (“City”) has a vital interest in maintaining safe, healthful, and efficient working conditions for employees, and recognizes that individuals who are impaired because of drugs and/or alcohol jeopardize the safety and health of other workers as well as themselves. The City of Big Lake does not intend to intrude into the private lives of its employees, but strongly believes that a drug, alcohol and cannabis-free workplace is in the best interest of employees and the public alike. Alcohol, drug, and cannabis abuse can cause unsatisfactory job performance, increased tardiness and absenteeism, increased accidents and workers’ compensation claims, higher insurance rates, and an increase in theft of city property. The City of Big Lake’s Drug, Alcohol and Cannabis Testing Non-DOT policy has been established for the purpose of providing a safe workplace for all.

City employees and applicants required to hold a commercial driver’s license by the United States Department of Transportation (“DOT”) for their job will be tested under the City’s Drug and Alcohol Testing for Commercial Drivers Policy (the “DOT Policy”). All other employees or job applicants offered employment with the City must undergo testing when required under this policy.

To ensure the policy is clearly communicated to all employees and applicants to whom offers of employment have been made, and to comply with state law, employees and applicants are required to review this policy and sign the “policy acknowledgement.”

Persons Subject to Testing and Circumstances Under Which Testing May Be Required

Under this policy, the City may test any employees for alcohol and/or drugs, including cannabis, under the following circumstances with a properly accredited or licensed testing laboratory, in accordance with Minn. Stat. § 181.953, subd. 1.

Reasonable Suspicion Testing:

Consistent with Minn. Stat. § 181.951, subd. 5, employees will be subject to alcohol and/or drug testing, including cannabis testing, when reasonable suspicion exists to believe that the employee:

- Is under the influence of alcohol, drugs or cannabis; or
- Has violated written work rules prohibiting the use, possession, sale or transfer of drugs, alcohol, or cannabis, while working, while on City property, or while operating City vehicles, machinery or any other type of equipment; or
- Has sustained a personal injury as defined in Minn. Stat. § 176.011, subd. 16 or has caused another employee to sustain an injury or;
- Has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

Reasonable suspicion may be based upon, but is not limited to, facts regarding appearance, behavior, speech, breath, odor, possession, proximity to or use of alcohol, drugs or cannabis or containers or paraphernalia, poor safety record, excessive absenteeism, impairment of job performance, or any other circumstances that would cause a reasonable employer to believe that a violation of the City's policies concerning alcohol, drugs or cannabis may have occurred. These observations will be reflected in writing on a Reasonable Suspicion Record Form.

For off-site collection, employees will be driven to the employer-approved medical facility by their supervisor or a designee. For an on-site collection service, the employee will remain on site and be observed by the supervisor or designee. The medical facility or on-site collection service will take the urine or blood sample and will forward the sample to an approved laboratory for testing.

Pursuant to the requirements of the Drug-Free Workplace Act of 1988, all City employees, as a condition of continued employment, will agree to abide by the terms of this policy and must notify Human Resources of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction. If required by law or government contract, the City will notify the appropriate federal agency of such conviction within 10 days of receiving notice from the employee.

Right of Refusal:

Employees and job applicants have the right to refuse to submit to an alcohol, drug, or cannabis test under this policy. However, such a refusal will subject an employee to immediate termination.

Any intentional act or omission by the employee or applicant that prevents the completion of the testing process constitutes a refusal to test.

An applicant or employee who substitutes, or attempts to substitute, or alters, or attempts to alter a testing sample is considered to have refused to take a drug alcohol or cannabis test. In such a case, the employee is subject to immediate termination of employment, and in the case of an applicant, the job offer will be immediately withdrawn.

Refusal on Religious Grounds:

An employee or job applicant who, on religious grounds, refuses to undergo drug and/or alcohol testing, including cannabis testing, of a blood sample will not be considered to have refused testing, unless the employee or job applicant also refuses to undergo drug, alcohol, or cannabis testing of a urine sample.

Cost of Required Testing:

The City will pay for the cost of all drug, alcohol or cannabis testing, requested or required of all job applicants and employees, except for confirmatory retests. Job applicants and employees are responsible for paying for all costs associated with any requested confirmatory retests.

Prohibition against Drugs and Alcohol

Use and Possession of Alcohol or Drug(s):

Employees are prohibited from the use, possession, transfer, transportation, manufacture, distribution, sale, purchase, solicitation to sell or purchase, or dispensation of drugs, including cannabis, or drug paraphernalia, while on duty; while on City premises; while operating any City vehicle, machinery, or equipment; or when performing any City business, except (1) pursuant to a

valid medical prescription used as properly instructed; (2) the use of over-the-counter drugs used as intended by the manufacturer; or (3) when necessary for approved law enforcement activity. Whenever employees are working on City premises, are operating a City vehicle, or are conducting City-related work offsite, they are prohibited from consuming alcohol.

Besides having a zero-tolerance policy for the use of alcohol, illegal drugs, or misused prescription drugs on the worksite, the City also prohibits the use, possession of, impairment by any cannabis or medical cannabis products (e.g., hash oils, edibles or beverages containing cannabinoids, or pills) on the worksite by a person working as an employee at the City or while “on call” and subject to return to work.

Having a medical marijuana card, patient registry number, and/or cannabis prescription from a physician does not allow anyone to use, possess, or be impaired by that drug while on City premises; while operating any City vehicle, machinery, or equipment; or when performing any City business. Likewise, the fact that cannabis may be lawfully purchased and consumed does not permit anyone to use, possess, or be impaired by them while on City premises; while operating any City vehicle, machinery, or equipment; or when performing any City business. The federal government still classifies cannabis as an illegal drug, even though some states, including Minnesota, have decriminalized its possession and use. There is no acceptable concentration of marijuana metabolites in the blood or urine of an employee who operates City equipment or vehicles or who is on one of the City worksites. Applicants and employees are still subject to being tested under our drug, alcohol and cannabis testing policy.

Employees are subject to being disciplined, suspended, or terminated after testing positive for cannabis if the employee used, possessed, or was impaired by cannabis, including medical cannabis, while on the premises of the place of employment or during the hours of employment.

While Impaired by Alcohol, Drugs or Cannabis:

Employees are prohibited from being under the influence of alcohol or drugs, including cannabis, or having a detectable amount of an illegal drug in the blood or urine when reporting for work; while on duty; is on the City’s premises; while operating any City vehicle, machinery, or equipment; or when performing any City business, except (1) pursuant to a valid medical prescription used as properly instructed; or (2) the use of over-the-counter drug used as intended by the manufacturer.

Driving While Impaired:

A conviction of driving while impaired in a City-owned vehicle at any time during business or non-business hours, or in an employee-owned vehicle while conducting City business, may result in discipline, up to and including discharge.

Criminal Drug Convictions:

Any employee convicted of any criminal drug statute must notify his or her supervisor and the City’s Human Resources Division in writing of such conviction no later than five days after such conviction. Within 30 days after receiving notice from an employee of a drug-related conviction, the City will take appropriate personnel action against the employee up to and including discharge or require the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program as an alternative to termination. In the event notice is not provided to the supervisor and the employee is deemed to be incapable of working safely, the employee will not be permitted to

work and will be subject to disciplinary action, including dismissal from employment. In accordance with the Federal Drug-Free Workplace Act of 1988, if the City is receiving federal grants or contracts of over \$25,000, the City will notify the appropriate federal agency of such conviction within 10 days of receiving notice from the employee.

Failure to Disclose Lawful Drugs:

Employees taking a lawful drug, including prescription and over-the-counter drugs or cannabis, which may impair their ability to perform their job responsibilities or pose a safety risk to themselves or others, must advise their supervisor of this before beginning work. It is the employee's responsibility to seek out written information from his/her physician or pharmacist regarding medication and any job performance impairment and relay that information to his/her supervisor. In the event of such a disclosure, the employee will not be authorized to perform safety-sensitive functions.

Review and Notification of Test Results

Notification of Negative Test Results:

In the case of current employees and in accordance with Minn. Stat. § 181.953, Human Resources will notify the employee of a negative drug and/or alcohol result within three days of receipt of result by the City. A "Negative Test Results Notification" form will be sent to the employee, and he or she may request a copy of the test result report from Human Resources.

Notification of Positive Test Results:

In the event of a confirmed positive blood or urine alcohol drug, or cannabis test result, the City will notify the employee of a positive result within three days of receipt of the result. Human Resources will send to the employee or job applicant a "Positive Test Results Notification" letter containing further instructions. The employee or job applicant may contact Human Resources to request a copy of the test result report if desired. In accordance with Minn. Stat. § 181.953, subd. 3, a laboratory must report results to the City within three working days of the confirmatory test result.

Right to Provide Information after Receiving Test Results:

Within three working days after notice of a positive drug, alcohol, or cannabis test result on a confirmatory test, the employee or job applicant may submit information to the City to explain the positive result. In accordance with Minn. Stat. § 181.953, subd. 10, if an employee submits information either before a test or within three working days after a positive test result that explains the positive test result, (such as medications the employee is taking), the City will not take an adverse employment action based on that information unless the employee has already been under an affirmative duty to provide the information before, upon, or after hire.

Right to Confirmatory Retest:

A job applicant or employee may request a confirmatory retest of the original sample at the job applicant's or employee's own expense after notice of a positive test result on a confirmatory test. Within five working days after notice of the confirmatory test result, the job applicant or employee must notify the City in writing of the job applicant's or employee's intention to obtain a confirmatory retest. Within three working days after receipt of the notice, the City will notify the original testing laboratory that the job applicant or employee has requested the laboratory to conduct the confirmatory retest or transfer the sample to another qualified laboratory licensed to

conduct the confirmatory retest. The original testing laboratory will ensure the control and custody procedures are followed during transfer of the sample to the other laboratory. In accordance with Minn. Stat. § 181.953, subd. 3, the laboratory is required to maintain all samples testing positive for a period of six months. The confirmatory retest will use the same drug and/or alcohol threshold detection levels as used in the original confirmatory test.

In the case of job applicants, if the confirmatory retest does not confirm the original positive test result, the City's job offer will be reinstated, and the City will reimburse the job applicant for the actual cost of the confirmatory retest. In the case of employees, if the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test will be taken against the employee, the employee will be reinstated with any lost wages or salary for time lost pending the outcome of the confirmatory retest result, and the City will reimburse the employee for the actual cost of the confirmatory retest.

Access to Reports:

In accordance with Minn. Stat. § 181.953, subd. 10, an employee will have access to information contained in his or her personnel file relating to positive test results and to the testing process, including all information gathered as part of that process.

Dilute Specimens:

A negative or positive dilute test result (following a second collection) which has been confirmed will subject an employee to immediate termination.

Consequences for Employees Engaging in Prohibited Conduct

Employees:

- **No Adverse Action without Confirmatory Test.** The City will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee based on a positive test result from an initial screening test that has not been verified by a confirmatory test.
- **Suspension Pending Test Result.** The City may temporarily suspend a tested employee with or without pay or transfer that employee to another position at the same rate of pay pending the outcome of the requested confirmatory retest, provided the City believes that it is reasonably necessary to protect the health or safety of the employee, co-employees, or the public.

The employee will be asked to return home and will be provided appropriate arrangements for return transportation to his or her residence. In accordance with Minn. Stat. § 181.953, subd. 10, an employee who has been suspended without pay will be reinstated with back pay if the outcome of the requested confirmatory retest is negative.

Discipline and Discharge:

Confirmatory Positive Test Result:

The City will not discharge an employee for a first confirmatory positive test unless the following conditions have been met:

- The City has first given the employee an opportunity to participate in either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the City after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency. Participation by the employee in

any recommended substance abuse treatment program will be at the employee's own expense or pursuant to the coverage under an employee benefit plan. The certified chemical use counselor or physician trained in the diagnoses and treatment of chemical dependency will determine if the employee has followed the rehabilitation program as prescribed; and

- The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a refusal to test or positive test result on a confirmatory test after completion of the program.

Other Misconduct:

Nothing in this policy limits the right of the City to discipline or dismiss an employee on grounds other than a positive confirmatory test result, including conviction of any criminal drug statute for a violation occurring in the workplace or violation of other City personnel policies.

Emergency Call Back to Work Provisions:

If an employee is called out for a City emergency and he or she reports to work and is suspected of being under the influence of drugs, alcohol, or cannabis he or she will not be subject to the testing procedures of this policy but will not be allowed to work. Appropriate arrangements for return transportation to the employee's residence will be made. It is the sole responsibility of the employee who is under the influence of alcohol, drugs or cannabis and who is called out for a City emergency, to notify his or her supervisor of this information and advise if he or she is unable to respond to the emergency call back.

Non-Discrimination

The City of Big Lake's policy on work-related substance abuse is non-discriminatory in intent and application; however, in accordance with Minn. Stat., ch. 363, disability does not include conditions resulting from alcohol or other drug or cannabis abuse which prevents an employee from performing the essential functions of the job in question or constitutes a direct threat to property of the safety of individuals.

Furthermore, the City will not retaliate against any employee for asserting his or her rights under this policy.

City's Employee Assistance Program

The City has in place a formal employee assistance program (EAP) to assist employees in addressing serious personal or work-related problems at any time. The City's EAP provides confidential, cost-free, short-term counseling to employees and their families. Employees who may have an alcohol, cannabis, or other drug abuse problem are encouraged to seek assistance before a problem affects their employment status. Employee assistance program services are available by contacting Sand Creek

Policy Contact for Additional Information

If you have any questions about this policy or the City's drug, alcohol and cannabis testing procedures, you may contact your immediate supervisor, Human Resources, or the City Administrator to obtain additional information.

By this policy, the City of Big Lake has established a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace and its policy of maintaining a drug-

free workplace. Each City employee will receive a copy of this policy and will be required to read it.

Definitions

Alcohol: Means the intoxicating agent in beverage alcohol or any low molecular weight alcohols such as ethyl, methyl, or isopropyl alcohol. The term includes but is not limited to beer, wine, spirits, and medications such as cough syrup that contain alcohol.

Alcohol use or usage: Means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Cannabis: Means cannabis and its metabolites, including cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products.

Cannabis testing: Mean analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. § 181.953, subd.1, for the purpose of measuring their presence or absence of cannabis in the sample tested.

City: Means the City of Big Lake.

City premises: Means, but is not limited to, all City job sites and work areas. For the purposes of this policy, City premises also includes any other locations or modes of transportation to and from those locations while in the course and scope of employment of the City.

City vehicle: Means any vehicle which employees are authorized to use solely for City business when used at any time; or any vehicle owned or leased by the City when used for City business.

Collection site: Means a place designated by the City where job applicants and employees present themselves for the purpose of providing a specimen of their breath, urine, and/or blood to be analyzed for the presence of drugs and alcohol.

Confirmatory test: Means a drug, alcohol or cannabis test on a sample to substantiate the results of a prior drug, alcohol test or cannabis on the same sample, and that uses a method of analysis allowed under one of the programs listed in Minn. Stat. § 181.953, subd. 1.

Drug: Includes any “controlled substance” as defined in Minn. Stat. § 152.01, subd. 4, and also includes all cannabinoids, including those that are lawfully available for public consumption that do not otherwise qualify as being a “controlled substance” as defined in Minn. Stat. § 152.01, subd. 4. Cannabis and its metabolites are considered a “drug” for positions in the following categories, regardless of the kind of testing involved: safety sensitive positions; peace officer positions; firefighter positions; positions requiring face-to-face care, training, education, supervision, counseling or medical assistance to children, vulnerable adults or patients receiving treatment, examination or emergency care for a medical, psychiatric or mental condition; positions requiring a commercial driver's license or requiring the employee to operate a motor vehicle for which state or federal law requires drug or alcohol testing; positions funded by a federal grant; or other positions for which state or federal law requires testing of a job applicant or employee.

Drug and/or alcohol testing, and drug and/or alcohol test: Mean analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. § 181.953, subd.1, for the purpose of measuring their presence or absence of drugs, alcohol, or their metabolites in the sample tested. "Drug and alcohol testing," "drug or alcohol testing," and "drug or alcohol test" do not include cannabis or cannabis testing, unless stated otherwise.

Drug paraphernalia: Has the meaning set forth in Minn. Stat. § 152.01, subd. 18.

Employee: Means a person who performs services for compensation for the City and includes independent contractors except where specifically noted in this policy.

Initial screening test: Means a drug, alcohol, or cannabis test that uses a method of analysis under one of the programs listed in Minn. Stat. § 181.953, subd. 1.

Job applicant: Means a person who applies to become an employee of the City and includes a person who has received a job offer made contingent on the person passing drug testing.

Positive test result: Means a finding of the presence of alcohol, drugs, cannabis or their metabolites that exceeds the cutoff levels established by the City. Minimum threshold detection levels are subject to change as determined in the City's sole discretion.

Random selection basis: Means a mechanism for selection of employees that (1) results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected, and (2) does not give an employer discretion to waive the selection of any employee selected under the mechanism.

Reasonable suspicion: Means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.

Safety-sensitive position: Means a job, including any supervisory or management position, in which an impairment caused by drug, alcohol, and/or cannabis usage would threaten the health or safety of any person.

Under the influence: Means (1) the employee tests positive for alcohol drugs, or cannabis or (2) the employee's actions, appearance, speech, and/or bodily odors reasonably cause the City to conclude that the employee is impaired because of illegal drug use or alcohol use.

DRUG, ALCOHOL AND CANNABIS TESTING FOR NON-COMMERCIAL DRIVERS POLICY ADOPTION

The Drug, Alcohol and Cannabis Testing for Non-Commercial Drivers Policy shall be adopted by the City Council. The policies shall be reviewed by the Finance Department staff on an ongoing basis and any modifications made thereto must be approved by the City Council.

Adopted by City Council March 13, 2024
Revisions: