

City of Sterling Personnel Policies

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CHAPTER 17 SUBSTANCE ABUSE

In accordance with the Federal **Drug Free Workplace Act of 1988**, the City of Sterling, as a federal grant recipient is required to certify to the granting agency that the City will ensure a drug-free workplace. Failure to comply with this requirement could result in suspension of the grant payments or termination of grant payments, or both.

SECTION 1 - GENERAL POLICY DRUG/ALCOHOL FREE WORK PLACE

The City of Sterling recognizes alcohol and drug abuse as a potential source of health, safety, and security problems. The City of Sterling expects all employees to assist in maintaining a work environment free from the effects of alcohol, drugs or other substances which impair the judgment or functioning of the employee. **Compliance with this substance abuse policy is made a condition of employment.**

- A. The City of Sterling prohibits employees from the manufacture, possession, use, consumption, distribution, or purchase of non prescribed drugs and intoxicants on City premises and from working under the influence of alcohol, illegal drugs, or intoxicants during working hours. (Except for Criminal violations and regulations as specified in **49 CFR 382**, the City of Sterling reserves the right to establish what will constitute a definition of impairment or under the influence on a case by case basis.)

Exceptions:

1. Moderate consumption and/or possession of alcohol on City premises by employees at City-approved functions (e.g. Receptions, etc.) will be allowed but the City assumes no responsibility for employee post function behavior.
 2. Law enforcement personnel performing activities in the line of duty which would normally violate this policy in so far as the activities are specifically assigned by a supervisor. This exemption will apply only in the course of on duty assignments with the City assuming no responsibility for post duty employee behavior.
- B. All employees are required to report to their jobs in an appropriate mental and physical condition, ready to work. If an employee may be impaired because of taking medication according to a doctor's prescription or an over the counter medication, they are expected to discuss it with their supervisor before commencing work that day.
- C. Any employee who is convicted of any violation of any criminal drug statute (including misdemeanors for a violation occurring on City property or during working time) shall notify the Human Resource Department within five (5) working days of the date of conviction. A conviction includes any finding of guilty (including one agreed to by the employee or diversion) or plea of no contest and/or any imposition of a fine, jail sentence or other penalty.

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- D. Any violation of this substance abuse policy shall result in discipline, up to and including dismissal from city service, under the City's discipline policy.
- E. **While the City does not have a formal employee assistance program, the use of other available resources, including any applicable health insurance coverage, is encouraged for any employee desiring drug counseling or rehabilitation.** When work performance is impaired, however, use of or enrollment in an applicable program offered does not preclude appropriate action by the City of Sterling. The City of Sterling retains full and final discretion on whether, when, and under what conditions an employee may be re-employed after an instance of substance abuse.

The above policy provisions are adopted pursuant to the Drug-Free Workplace Act of 1988.

SECTION 2 - DRUG/ALCOHOL TESTING GENERAL

Note: Employees holding a Commercial Drivers License (CDL) should review Addendum 1 of these policies as some of the protocols and processes referenced and presented in this section may differ slightly from the drug and alcohol testing protocols for CDL holders.

A. Policy

Employees of the City of Sterling are subject to Substance Abuse Testing as set forth in this policy. Any of the following activities are a violation of City policy and subject an employee to disciplinary action up to and including dismissal:

- The illegal use of controlled substances (also referred to as "illegal drugs") and on-the-job impairment by alcohol, regardless of the source of the alcohol;
- Consumption of alcohol four (4) hours prior to beginning work in a safety sensitive capacity;
- The illegal purchase, transfer, or possession of a controlled substance; or
- Exceeding the recommended dosage for over-the-counter drugs or the dosage prescribed by a medical doctor for prescription drugs is prohibited.

An employee who is found in violation of this policy through the use illegal drugs, tests positive for illegal drugs, or is impaired by alcohol on-the-job, will be subject to disciplinary action, which may include discharge from employment for the first offense.

B. Applicability

Some provisions of this policy apply only to City employees whose job descriptions require a commercial driver's license (CDL). The term "CDL employee" refers to these employees. Except where a provision is limited in its application to a CDL employee, this policy applies to all City employees.

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The following table illustrates which positions are subject to the various types of drug and or alcohol testing.

Circumstances for a Substance Abuse Test	Drug Testing	Alcohol Testing
Reasonable suspicion	Any City Employees regardless of the type appointment.	Any City Employees regardless the of type appointment.
Post Accident	Any City employee operating city equipment or vehicles at the time of a qualifying accident.	Any City employee operating city equipment or vehicles involved in a qualifying accident.
Random	All City Employees holding a CDL or classified as a safety sensitive position.	All City Employees holding a CDL or classified as a safety sensitive position.
Pre-Employment	Applicants seeking a "regular" status appointment with the City of Sterling.	Not applicable to CDL employees.
Follow up as part of Rehabilitation program.	Any employee whose previous test results indicate impairment while on the job.	Any employee whose previous test results indicate impairment while on the job.

The City Manager of the City of Sterling has established the following factors in designating specific positions as safety sensitive. The number of safety sensitive positions may be increased as further criteria are established by the City Manager of the City of Sterling:

- 1) Drivers of commercial vehicles:
 - a. Combination Vehicle (Group A) – Any combination of vehicles with a gross combination weight rating (GCWR) of 26,001 pounds or more provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds. With a gross vehicle weight rating of 26,001 pounds or more or combination vehicles (weighing at least 26,001 pounds);
 - b. Heavy Straight Vehicle (Group B) – Any single vehicle with a combined weight rating of 26,001 or more, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR.
 - c. Small Vehicle (Group C) – Any single vehicle, or combination of vehicles that meets neither the definition of Group A or Group B, which is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act which require the vehicle to be placarded under the Hazardous Materials Regulations.
- 2) Personnel controlling dispatch or movement of a city vehicle for city use;
- 3) Personnel engaged public safety activities; or
- 4) Personnel engaged in maintaining and servicing City vehicles and equipment used in the course of an employee performing a safety sensitive function.

C. Circumstances for a Substance Abuse – Drug or Alcohol Screen

The City of Sterling will have tests of breath or urine conducted to determine the presence of illegal drugs or alcohol under the following circumstances:

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1) Reasonable Suspicion Testing -

If reasonable suspicion exists to believe that an employee, while on the job, is impaired by alcohol or illegal drugs, a supervisor in the employee's chain of command, the department head, or the City Manager may require the employee to submit immediately to testing.

Reasonable suspicion may be based on the following:

- Witnessing by at least one supervisor (two, if feasible) of the employee's unusual demeanor, appearance or conduct, or irrational behavior (e.g.; slurred speech, lack of balance, excessive aggressiveness, docility, or drowsiness); difficulty in performing or inability to perform normal job function; smell of alcohol or illegal drugs;
- Suspected possession of or use of alcohol or illegal drugs on the job; or
- A determination by a supervisor in the employee's chain of command, based on a review of surrounding facts and circumstances, that an employee might be at fault in an on-the-job accident or injury, or an operating accident, involving City equipment, property, or personnel. In making such a determination, the supervisor should consider such factors as recommendations from the employee's immediate supervisor; injury to the employee or others; damage to property; concern for the safety of the employee or others; and pertinent behavioral factors.

2) Post-Accident Testing

For purposes of this subsection, the term "motor vehicle accident" includes an accident occurring during the course of performing City job duties which involves either a City vehicle or the employee's personal vehicle while on City business and results in:

- A fatality or bodily injury to anyone;
- Damage to a vehicle or any other property; or
- A citation for a moving traffic violation arising from the accident.

If an employee's actions either contributed to a motor vehicle accident, or cannot be discounted as a contributing factor to a motor vehicle accident, as determined by a supervisor in the employee's chain of command, the Department Head, or the City Manager, the employee shall provide, as soon as possible after the motor vehicle accident, breath and urine samples to be tested for drugs and alcohol at a testing site designated by the City.

Unless unable to do so because of a serious injury, the employee must immediately contact a supervisor in the employee's chain of command to report the accident. The supervisor will contact the department head or the City Manager. If the supervisor, the department head, or the City Manager determines that the employee shall be tested under this subsection, transportation will be arranged to take the employee to the designated testing site.

If the employee is seriously injured and cannot provide a sufficient breath or urine sample, the employee shall provide the necessary authorization to permit the City to obtain hospital reports and other documents that would indicate the concentrations, if any, of alcohol or drugs in the employee's system.

An employee subject to testing under this subsection shall not use alcohol for either eight (8) hours following the motor vehicle accident, or until the employee undergoes a post-accident alcohol test, whichever comes first.

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3) Other Testing Circumstances

- Applicants for regular status appointments with the City shall be subject to pre-employment drug testing.
- CDL employees shall be subject to biennial drug and alcohol testing in conjunction with the medical examinations required for a commercial driver's license.
- Random testing - Employees holding a safety sensitive position shall be subject to random drug and/or alcohol testing. The percentage of safety sensitive employees to be tested annually for either alcohol or drugs, unless specified by Federal or State statute, shall be determined by the City Manager. Employees returning to work in a safety sensitive capacity after completing a rehabilitation program due to a positive drug or alcohol test are subject to follow-up random drug and alcohol testing with the frequency of such determined by the City in conjunction with the Substance Abuse Professional (SAP) recommendations.

D. Time Frame for Administering an Alcohol Test

Alcohol tests, performed under any of the circumstances listed previously, should be performed as soon as possible after the determination of reasonable suspicion, accident, etc. If an alcohol test is not performed within two (2) hours of the determination of reasonable suspicion, the person who made the determination must document the reasons for the failure to test. If an alcohol test is not performed within eight (8) hours of the determination of reasonable suspicion or accident no further efforts to test will be made based on that determination, and the person who made the determination to not test must document the reasons for the failure to test.

E. Results of a Drug Screen

Substances tested for in a Drug Screen	Initial Testing Threshold
Marijuana Metabolite	50 ng/mL
Cocaine Metabolite	150 ng/mL
Opiates	2000 ng/mL
Phencyclidine	25 ng/mL
Amphetamines/ Methamphetamines	500 ng/mL
6-Acetylmorphine (Heroin)	10 ng/mL
MDMA (Ecstasy)	500 ng/mL

The above threshold amounts indicate impairment while at work and/or illegal usage of controlled substances. If a sample drawn and tested has levels of a substance at or above these levels listed in the above table the employee is in violation of the City's Drug and Alcohol policy. The employee will immediately be removed from the safety sensitive position and not allowed to resume work until a Substance Abuse Professional (SAP) has been consulted.

F. Results of an Alcohol Screen

An employee having a breath alcohol test which shows an alcohol concentration of 0.02 - 0.039 grams per 210 liters of breath must take available PTO time or leave without pay if PTO leave is exhausted for one working day after taking the test. The employee may return to work after being off the job for one working

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day, but must first take a breath alcohol test which shows a concentration of less than 0.02 grams per 210 liters of breath.

An employee having a breath alcohol test which shows an alcohol concentration of 0.04 grams per 210 liters of breath or greater shall immediately removed from the safety sensitive position. The employee shall take PTO time or leave without pay until authorized to return to work in the safety sensitive position by a Substance Abuse Professional (SAP).

A CDL employee may not work within 4 hours of consuming alcohol obtained from any source. If a CDL employee has consumed alcohol within 4 hours of reporting to work, the employee must take available PTO or, if PTO is exhausted, leave without pay, until no alcohol has been used within 4 hours of the beginning of the employee's next work shift.

G. Testing Procedure

The supervisor making the determination of reasonable suspicion or ordering the post-accident test, shall prepare a testing referral form, setting forth the basis for the finding of reasonable suspicion, or post-accident testing, as appropriate. The form shall be accompanied by other pertinent information, including names of witnesses of the circumstances or behavior that led to the referral. The supervisor shall make immediate arrangements to have the employee tested immediately, and the drug and alcohol tests shall be performed as soon as possible.

Test results shall be held in confidence by the laboratories with which the City contracts, and by the City, and shall only be disclosed to the employee tested, any personnel involved in supervisory or disciplinary capacities with regard to the employee, or City personnel participating in administrative or legal proceedings which concern in any manner the test results.

H. Sequence of events following a Positive Drug or Alcohol Screen

Drug Screen – Information collected from the screen is passed on to a Medical Review Officer (MRO). The MRO will contact the employee. After employee contact is made the MRO will issue either a false positive or a confirmed positive finding.

Alcohol Screen – A certified Breath Alcohol Technician (BAT) will confirm a positive evidential breath test (EBT) on site. The alcohol concentration will determine the sequence of events to follow the confirmed positive. If the sample concentration is greater than or equal to 0.04 grams per 210 liters of breath, the referral to a SAP is mandatory. If the sample concentration is greater than or equal to 0.02 grams per 210 liters of breath but less than 0.04 grams per 210 liters of breath the employee will be removed from the safety sensitive position until the lesser time limitation of twenty four hours or a subsequent breath alcohol test yields less than 0.02 grams per 210 liters of breath.

In any event, if an employee is removed from a safety sensitive function due to a positive substance abuse screen, the time missed from work shall either be paid through PTO usage or unpaid, at the employee's discretion.

I. Substance Abuse Professional

If the MRO reports a confirmed positive screen, the employee will be required to contact a Substance Abuse Professional (SAP). The SAP contact is for further assessment and assignment of a treatment program in the opinion of the SAP. The affected employee is required to follow the treatment program of the SAP or forfeit employment with the City of Sterling.

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J. Employment Action Taken after a Confirmed Positive Drug or Alcohol Screen

Applicant - If an applicant tests positive for drug usage the employment offer shall be withdrawn. The applicant is also disallowed the opportunity for employment for two (2) years and will only be given future consideration by providing proof of successful completion of a drug rehabilitation program.

Employees - If the City foregoes the option to discipline for a first offense upon the receipt of a confirmed positive test an employee will be required to participate in a rehabilitation program as specified by the consulting SAP. Failure by an employee to participate in the SAP determined program shall result in dismissal from City service.

SECTION 3 - REFUSAL TO SUBMIT TO TESTING

An employee who refuses to submit to drug and alcohol testing in compliance with this policy shall be deemed to have tested positive for illegal drugs and to be impaired by alcohol on-the-job. Refusal to submit to testing includes any of the following:

- Refusal to take the test;
- Inability to provide within 4 hours sufficient breath or urine to be tested, without a valid medical explanation;
- Tampering with or attempting to tamper with or adulterate the specimen or collection procedure;
- Failure to comply with the requirement that the employee shall not use alcohol for either 8 hours following a motor vehicle accident or until the employee undergoes a post-accident alcohol test, whichever comes first;
- Not reporting to the designated testing site at the scheduled time; or
- Refusal to provide the necessary authorization for obtaining hospital reports and other documents as required.

SECTION 4 - CONTESTING A POSITIVE DRUG SCREEN

Employees who submit a urine sample resulting in a confirmed positive test result for illegal drug usage may request a retest of the sample. Any and all expenses associated with retesting of the sample are the sole responsibility of the employee. Employees wishing to contest test results need to do so in writing to the Human Resource Office or City Manager. A retest does not normally entail drawing another urine sample.