

I. PURPOSE

The purpose of this policy is to eliminate substance abuse and its effects in the workplace. Substance abuse in this policy is defined as the use of alcohol, illegal drugs, prescription drugs or any other substance which may impair an employee's ability to safely and effectively perform the functions of the particular job.

While the City of Visalia has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public, as well as themselves.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program. While the City will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help.

Alcohol or drug abuse will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of the City's managers, supervisors, and employees. To that end the City will act to eliminate any substance abuse which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the City's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

In recognition of the public service responsibilities entrusted to the employees of the City of Visalia, and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against substance abuse is hereby adopted by the City of Visalia.

II. APPLICATION

This policy applies to all employees of and to all applicants for positions with the City of Visalia. This policy applies to alcohol and to all substances, drugs, or medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job. This policy does not prohibit employees or groups of employees from participating in voluntary drug testing programs.

In recognition of the fact that *sworn personnel* within the State of California are subject to the *Police Officer's Procedural Bill of Rights*, this legislation will supersede the City of Visalia's Substance Abuse Policy (#123) in its application to *sworn personnel* within the Visalia Police Department. Nothing in this policy denies or diminishes any Policy Management prerogatives as described within the Visalia Police Departmental Manual of Regulations (see addendum).

III. POLICY

It is the policy of the City of Visalia that employees shall not be impaired and under the influence of alcohol or drugs while subject to duty, nor report for work following the use of alcohol or drugs, where such use may impair the employee's ability to perform assigned duties.

The possession and/or use of illegal substances is strictly prohibited and will not be tolerated.

The use of medically prescribed medications and drugs is not a violation of this policy. However, it is the responsibility of the employee to notify his/her Supervisor, prior to beginning work, of any substance which to the employee's knowledge, might interfere with the safe and effective performance of duties or operation of City equipment. Failure to do so can result in discipline, up to and including termination. In the event there is a question regarding an employee's ability to perform safely and effectively the duties of his/her job or operation of City equipment as a result of medications or drugs, clearance from a qualified physician may be required.

The City reserves the right to search, without employee consent, all areas and property in which the City maintains control or joint control with the employee. The City may also notify the appropriate law enforcement agency that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the City.

Refusal to submit immediately to alcohol and/or drug analysis when requested by City management or law enforcement personnel may constitute insubordination and may be grounds for discipline up to and including termination.

Employees reasonably believed to be impaired and under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be requested to remain at the work site for a reasonable time until he or she can be safely transported from the work site.

The City is committed to providing reasonable accommodation to those employees whose drug or alcohol addiction may qualify them as handicapped under federal or state law.

The City has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Participation in this program is kept confidential. Employees should contact their supervisors, Human Resources, or Risk Management for additional information.

The City will have a drug-free awareness program to inform employees of the dangers and penalties of drug use and of available counseling and assistance programs. Employees wanting further information about this program should contact their supervisors or the Human Resources Department.

IV. EMPLOYEE RESPONSIBILITIES

An employee must:

- A. Not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use.

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- B. Not possess, provide, or use impairing drugs (illegal drugs and prescription drugs without a prescription) during working hours or while subject to duty, on breaks, during meal periods or at anytime while in a City-operated facility or on City property.
- C. Not possess, provide, or use alcohol during working hours or while subject to duty, on breaks, during meal periods or at anytime while in a City-operated facility or on City property; except for specific designated City functions or at the discretion of the City Manager, Department Heads or their designee.
- D. Submit immediately to an alcohol and drug test when requested by a Department Head or their designee.
- E. Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescriptions or non-prescription, that the employee knows may interfere with the safe and effective performance of duties or operation of City equipment.
- F. Provide within 48 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive. The prescription must be in the employee's name.
- G. An employee involved in an injury accident, who is found to be under the influence of alcohol and/or drugs may be held personally liable for the accident and injuries including punitive damages. Furthermore, this may reduce and/or jeopardize other City benefits.
- H. Notify the Human Resources Department within 10 days after conviction (including a plea of nolo contendere) for any drug offense occurring in the workplace.

V. **MANAGEMENT RESPONSIBILITIES AND GUIDELINES**

- A. Managers and supervisors are responsible for distribution and reasonable enforcement of this policy.

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- B.** Managers and supervisors, with approval from their Department Head or designee and the Human Resources Department, may request that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or subject to being called. Training will be provided to Managers and Supervisors on substance abuse.

“Reasonable suspicion” is a belief, based on objective facts, sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol to the extent that the employee’s ability to perform the functions of the job is impaired or so that the employee’s ability to perform his/her job safely is reduced.

- C.** Any of the following (but not limited to the following), alone or in combination, may constitute reasonable suspicion:

1. Slurred speech;
2. Alcohol and/or other odors on breath;
3. Unsteady walking and movement;
4. An accident involving City property or while on duty;
5. Physical altercation;
6. Verbal altercation;
7. Unusual behavior;
8. Possession of alcohol or drugs;
9. Information obtained from a reliable person with personal knowledge.

- D.** Any manager or supervisor requesting an employee to submit to a drug and/or alcohol test should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.

- E.** Any manager or supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this policy. Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor should request that the employee remain at the

workplace for a reasonable time until the employee can be safely transported home.

- F. Managers and supervisors shall not physically search the person of employees, nor shall they search the personal possession of employees without the consent of, and in the presence of, the employee.
- G. Managers and supervisors shall notify their Department Head and the Human Resources Department or designee when they have reasonable suspicion to believe that an employee may have alcohol and/or illegal drugs in his or her possession or in an area not jointly or fully controlled by the City. If the Department Head or designee concurs that there is reasonable suspicion of illegal alcohol and/or drug possession, the Department Head shall notify the appropriate law enforcement agency.

VI. PHYSICAL EXAMINATION

The drug and/or alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana and other cannabinoids. An initial drug and/or alcohol test will be conducted. If the initial test has a positive result, a confirmatory test will be performed after the initial positive result.

An employee will be notified that a drug and/or alcohol test will be performed and the employee's consent will be obtained prior to any such test being performed.

VII. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

- A. Pre-employment Physicals
 - 1. Applicants will be notified during the application process and prior to any such test being performed that a drug and/or alcohol test will be required as a condition to placement in any position in which a pre-employment drug and/or alcohol test is a job requirement.

The drug and alcohol test will also be given to any employee applying for a transfer or promotion into a position which is subject to employment drug and/or alcohol testing. This includes safety sensitive positions and those positions requiring a commercial driver's license.

2. A positive result from a drug and/or alcohol analysis may result in the applicant not being hired where the applicant's use of drugs and/or alcohol could affect requisite job standards, duties or responsibilities.
3. If a drug screen is positive at the pre-employment physical, the applicant must provide within 48 hours of request, bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.
4. The positions that will be subject to pre-employment, promotional and transfer testing are maintained in the Human Resources Department. The City Manager, or his designee, can add other positions to the pre-employment, promotional and transfer testing as deemed appropriate.

B. During Employment Physicals or Alcohol/Drug Tests

1. Employees employed in safety sensitive positions may be required to participate in random drug and alcohol screens. Employee will be notified at random of a drug screening during an employees normal work schedule. The employee must report to the designated location for the drug/alcohol testing.

Employees employed in positions requiring possession of a commercial driver's license will be required to take drug/alcohol test as part of their bi-annual medical exam for the Class A and Class B driver's license.

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2. A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.
3. If the drug screen is positive, the employee must provide within 48 hours of request, bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor of the presence of the impairing substance prior to beginning work, the employee may be subject to disciplinary action up to and including discharge.
4. If an alcohol and/or drug test is positive for alcohol or drugs, the City shall conduct an investigation to gather all the facts. The decision to discipline or discharge will be followed in conformance with the Corrective Counseling Policy #116.

VIII. CONFIDENTIALITY

Laboratory reports or test results shall not appear in an employee's general personnel folder. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Human Resources Director.

The reports or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when:

1. The information is compelled by law or by judicial or administrative process.
2. The information has been placed at issue in a formal dispute between the employer and employee.
3. The information is to be used in administering an employee benefit plan.

4. The information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

ADDENDUM TO SUBSTANCE ABUSE POLICY:

The Police Department Policy Manual Order #58 - Departmental Disciplinary Procedures Section II subsection H states that the following is subject to disciplinary action:

DRUGS / INTOXICANTS

1. Reporting for work or being at work following the use of drugs/intoxicants, where such use may impair the employee's ability to perform assigned duties or where there is an immediate lowering of esteem and suspicion of ineffectiveness when there is public contact by a Department employee evidencing the use of drugs/intoxicants; unauthorized possession of, use, or attempting to bring drugs/intoxicants to work site, except as authorized in the performance of an official assignment. An employee who is authorized to consume drugs/intoxicants is not permitted to do so to such a degree that it may impair on-duty performance.
2. Reporting for work or being at work following the use of "controlled substances" or any drug (whether legally prescribed or otherwise) where such use may impair the employee's ability to perform assigned duties; unauthorized possession of, use, or attempting to bring any "controlled substance" or other illegal drug to any work site.

INTOXICANT TESTING

In addition to the Police Manual the Police Department reserves the right to conduct intoxicant testing in the following situations:

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1. In the event of major incidents involving *Sworn Police personnel* such as major accidents, use of deadly force, etc.; it is determined an employee's state of sobriety is relevant to the investigation, appropriate physiological fluid samples may be taken. These samples may be obtained by one of the following:
 - a. obtain a blood sample for alcohol testing, and/or a urine sample for drug testing, by obtaining the Police Agency employee's valid consent therefore; or