



## **CITY OF NEW BRAUNFELS POLICIES AND PROCEDURES**

### **PROCEDURE(S): DRUG & ALCOHOL-FREE WORKPLACE**

**EFFECTIVE DATE: MAY 20, 2019**

**REVISION DATE(S): FEBRUARY 27, 2020, OCTOBER 1, 2022, JULY 1, 2023, JULY 1, 2025**

## **DRUG & ALCOHOL-FREE WORKPLACE**

### **A. Alcohol and Drug Abuse**

1. As a condition of employment at The City of New Braunfels team members must read and agree to abide by the Drug and Alcohol-Free Workplace Policy. The City is committed to maintaining a safe and productive work environment. Individuals impaired by alcohol or drugs while on the job pose safety and health risks not only to themselves but also to customers, fellow team members, and other persons with whom they come in contact.
2. Any individual who conducts business for the City, is applying for a position, or is conducting business on the City's property is covered by the City's Alcohol and Drug Abuse policy. The City's Drug and Alcohol-Free Workplace Policy applies whenever anyone is representing or conducting business for the City. This policy applies during working hours, whenever conducting business or representing the City, on-call, paid stand-by, on City property, and at City-sponsored events.
3. Involvement with drugs off the job eventually carries into the workplace thereby affecting the quality of a team member's job performance and safety. This requires not only a workplace free from the presence of illicit drugs, but also necessitates a workforce in whose private lives illicit drugs play no part.
4. Under the influence of illicit drugs shall mean having present in the body or urine a quantity of an illicit drug sufficient to register a positive result on the drug screen utilized by the City. It is the team member's responsibility to know and understand any medication they are taking, prescribed or non-prescribed, as well as its contents and its residuals. When team members use substances, they utilize them at their own risk. Team members may be subject to discipline for violations of the City's Drug and Alcohol-Free Workplace Policy, whether intake of an illicit substance was intentional or otherwise. The City will follow all state and federal laws in determining whether allowing the use of medically prescribed substances allowed under Texas law, such as low-THC cannabis products, as a reasonable accommodation for the team member's disability is appropriate.
5. Under the influence of alcoholic beverages is defined as not having the normal use of mental or physical faculties by reason of the introduction of alcohol into the body.



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6. No team member shall report to work or remain on duty when they are under the influence of any over-the-counter medication or prescription drug that adversely impacts the safety and health of themselves and others.
7. In keeping with our goal of providing an environment wherein team members may perform their jobs safely and efficiently, the City of New Braunfels is a drug and alcohol-free workplace. The drug-free workplace is a combined effort of pre-employment, post-accident, random testing and reasonable suspicion to ensure all City of New Braunfels staff understands the City's commitment to a drug-free work environment.

### **B. Provisions**

1. A team member shall not use, possess, sell, trade, offer to sell, or provide alcohol or controlled substances to any other team member or to any person while such a team member is on duty or on-call unless the team member is required as part of his or her job to legally possess alcohol or controlled substances, or is attending a work-related function as described below. Nothing contained herein is intended to prohibit, limit or restrict the lawful operations of the Police Department of the City of New Braunfels.
2. Reasonable suspicion shall mean a suspicion based upon facts which would lead a reasonably prudent person to believe it likely the team member in question was under the influence of illicit drugs or alcoholic beverages.
3. A Manager/Supervisor having reasonable suspicion a team member is using, possessing, selling, trading, offering to sell, or providing alcohol, except for the exemption outlined below, or illicit drugs to any other person while such a team member is on duty or on-call shall not permit the team member to perform or continue to perform any duties. A written statement will be required from the persons who observed the team member, describing the specific behavior that necessitated testing. When possible, consultation with the Legal and/or Human Resources departments is recommended prior to testing.
4. A Manager/Supervisor who has actual knowledge or a reasonable suspicion that a team member is under the influence of alcohol, or an illicit drug shall not permit the team member to perform or continue to perform any duties, and the team member will be required to undergo testing immediately. Failure of the team member to submit to drug or alcohol screening shall be grounds for termination.



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5. A team member shall not report for duty, or remain on duty, when using or testing positive for a controlled substance. A controlled substance is defined as any of a category of behavior-altering or addictive drugs, [i.e., heroin or cocaine], whose possession and use are restricted by law. A team member shall not report for duty or remain on duty while under the influence of a controlled substance and/or alcohol. A positive test for drugs and/or alcohol .04 or above will result in termination of employment.
6. No City team member in uniform or operating a City-owned or leased vehicle shall consume alcohol. Violations of the Substance Abuse Policy will result in disciplinary action, up to and including termination.

### **C. Team Member Amnesty Program**

The City is committed to supporting team members who voluntarily seek assistance for substance abuse problems before any workplace incident occurs. The Team Member Amnesty Program provides a one-time opportunity for individuals to request help without immediate disciplinary action, provided certain conditions are met. As long as the team member is actively participating in and fulfilling all requirements of their prescribed program, they will not be subject to discipline under the City's Alcohol and Drug Abuse Policy, unless subsequent information or behavior demonstrates policy violations.

Team members admitted to an in-patient treatment facility as part of their recovery plan may request up to 30 calendar days of catastrophic leave to complete treatment. Approval is subject to the City's catastrophic leave guidelines and requires appropriate documentation from a licensed medical provider. If a team member leaves treatment prior to completing the recommended program or does not follow the provider's instructions, they may be required to deduct applicable hours from their personal leave balances (e.g., sick, vacation, and/or compensatory time; in the order selected by the team member) and/or be subject to disciplinary action.

Team members are also encouraged to consult with Human Resources to determine their eligibility for leave under the Family and Medical Leave Act (FMLA). In addition, team members should coordinate with Human Resources to complete a Post-Treatment Return Agreement prior to resuming work, which outlines ongoing expectations, any follow-up testing requirements, and available support resources.



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Program participation requirements include the following:

1. **Disclosure:** Promptly communicate to their immediate supervisor, department director, and/or Human Resources that they are, or may be, experiencing drug or alcohol dependency.
2. **Treatment Compliance:** Actively participate in a program of counseling, treatment, or therapy recommended by the City's Employee Assistance Program (EAP) or another qualified provider selected by the team member.
3. **Release Authorization:** Upon request, sign a release authorizing providers to confirm with Human Resources whether the team member is complying with treatment requirements, has successfully completed the program, and is cleared to return to work. Final clearance must be provided by the treatment provider, and the team member is responsible for directly notifying their supervisor, department director, and/or HR of their return-to-work status. Failure to communicate with the City for two (2) or more consecutive business days following treatment completion may be considered a voluntary resignation.
4. **Follow-Up Testing:** Agree to submit to random or scheduled drug and/or alcohol screenings for no fewer than six (6) months after completing the program. Consent to this testing is a condition of continued employment.

### **D. Employee Assistance Program [EAP]**

Team members who voluntarily come forward to their manager, supervisor, or Human Resources to seek treatment will be referred to the City's Employee Assistance Program (EAP). Team members may also contact the EAP directly at any time for support. For contact information, team members can visit the Human Resources page on OneSite or contact Human Resources.

### **E. Drug Paraphernalia**

Any team member who possesses drug paraphernalia as that term is defined in Section 481.002, Texas Health & Safety Code, while on-duty is subject to disciplinary action up to, and including, termination.



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### **F. Prescription or Over-The-Counter Medication**

When a doctor, dentist, or other health care professional prescribes a medication for a team member, that team member is required to ask the prescribing health care professional whether the drug will affect a team member's ability to perform their duties safely. The team member is required to observe restrictions on the use of prescription medications. If the prescribing healthcare professional advises that a medication may impair the team member's ability to perform their duties safely, the team member must promptly inform their manager or supervisor before returning to work. Additionally, team members must have the medication in the original container, which identifies the drug, the dosage, the prescription date, and the prescribing health care professional. The same rule applies to over-the-counter drugs that include a written indication suggesting it may affect an individual's ability to perform their duties safely.

### **G. Pre-Employment Screening**

All applicants with the City of New Braunfels in positions considered to be safety and/or security sensitive will be required to submit to pre-employment drug screening prior to hiring. Applicants in positions not designated safety and/or security sensitive will not be subject to this provision but will be subject to any other testing procedures described in this policy. The City of New Braunfels will indicate that pre-employment drug screening will be required by labeling job descriptions/postings as safety and/or security sensitive. Any applicant who refuses to sign a consent form or who refuses to undergo the pre-employment drug screening will be ineligible for employment consideration with the City of New Braunfels for two years. Any applicant that tests non-negative during the pre-employment drug screen will be eligible to reapply after one year.

Positions that require a Commercial Driver License (CDL) must adhere to the additional guidelines and drug testing requirements through the Department of Transportation outlined in the FMCSA Regulations.



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## DRUG TESTING PROCEDURES

Any person offered employment with the City of New Braunfels for a position classified as “safety and/or security sensitive” is required to take a pre-employment drug screening as a condition of employment with the City.

### A. Pre-employment Drug Screening

#### Policy Definitions:

- A. **Alcohol** is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.
- B. **Controlled Substances (Drugs)** are defined as marijuana (THC), cocaine, opiates, amphetamines (including methamphetamines), and phencyclidine (PCP). For purposes of reasonable suspicion, random and post-accident testing, controlled substances testing may include testing for all of the above drugs in addition to barbiturates, benzodiazepines, methadone, tri-cyclic, and steroids.
- C. **City (Non-DOT/CDL) Safety and/or Security Sensitive** is defined as any of the following:
  - a. Operating machinery (i.e. heavy equipment, hazardous tools, etc.)
  - b. Maintenance of vehicles and equipment;
  - c. Transporting people;
  - d. Carrying a weapon in performance of essential job functions;
  - e. Ensuring the direct safety and protection of others and property, such as functions performed by lifeguards, police officers, firefighters, etc.
- D. **DOT/CDL Safety-Sensitive** means all time from the time a driver begins to work or is required to be in readiness to work until the time they are relieved from work and all responsibility for performing work. Safety sensitive functions shall include:
  - a. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;



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- b. All time inspecting equipment as required by §§392.7 and 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- c. All time spent at the driving controls of a commercial motor vehicle in operation;
- d. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of §393.76 of this subchapter);
- e. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- f. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

#### **Types of Testing:**

- A. Pre-Employment: Applicants who are made a conditional job offer must submit to testing for controlled substances before a final job offer is made. Team members in DOT Safety Sensitive positions will be required to submit to a pre-employment screening in accordance with the Federal Motor Carrier Safety Administration. Team members in a DOT Safety Sensitive position, who were not covered by a random drug testing program for more than 30 days, shall be required to submit to a DOT pre-employment test before return to a DOT Safety Sensitive position.
- B. Post-Accident: A team member is required to submit to drug and alcohol testing if they are involved in an accident while driving a city vehicle at any time, driving a personal vehicle on city business, or while operating city-owned motor driven equipment (see City Vehicle Use Policy). The team member must be removed from driving duties until drug and alcohol test results have been received and cleared by Human Resources. They may continue all other duties other than driving. Post-accident alcohol testing should be performed within 4 hours; otherwise, attempts to test should cease and a written record stating the reasons the test was not performed should be prepared by the supervisor and sent to Human Resources within 24 hours of the accident. Post-accident drug testing should be performed within 24 hours or not at all. If a test cannot be performed within that time period, a written record



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stating the reasons the test was not performed should be prepared by the supervisor and sent to Human Resources within 36 hours of the accident. All DOT Qualifying Accidents will be tested according to procedures put forth in 49 CFR Part 40, as amended. Exemptions to this policy include vehicle accidents where a City vehicle unintentionally made contact with an animal which results in non-preventable damage e.g. bird strikes window or deer jumps into roadway or if the City vehicle was unoccupied at the time of the accident e.g. struck in a parking lot.

- C. Reasonable Suspicion: All City team members are subject to reasonable suspicion testing for controlled substances and alcohol abuse based on objective facts and/or observable on-duty behavior sufficient to lead a Director/Manager/Supervisor to suspect a team member is under the influence of controlled substances and/or alcohol.
  - a. Reasonable Suspicion Testing: A supervisor must require a team member to submit to an alcohol and/or controlled substance test when they have reasonable suspicion to believe the team member is under the influence of controlled substances and/or alcohol. Reasonable suspicion testing will be done based on specific, contemporaneous observations concerning the team member's speech, appearance, behavior or odor. A written record of the observations will be made and signed within 24 hours of the observation or before test results are released (whichever is earlier) by the supervisor who made the observation. The team member must not be permitted to perform city defined safety-sensitive functions until 24 hours have elapsed. The team member may be placed on paid administrative leave pending the results of the test. The Director of Human Resources or designee should be notified as soon as possible in cases of reasonable suspicion.
- D. Random Testing: Team members in DOT Safety Sensitive positions that require a commercial driver's license are subject to random testing. The City of New Braunfels will conduct an unannounced drug test in accordance with Texas Department of Transportation regulations and guidelines of the Federal Motor Carrier Safety Administration for the annual minimum percentage rate for random drug and alcohol tests. Any driver refusing to submit to a random drug test at the time of the request will be presumed to have failed the test and will be terminated from employment. Per USDOT regulations, failure to submit a sample is equivalent to a refusal. All USDOT testing will be conducted with the procedures put forth in



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49 CFR Part 40, as amended. This regulation is available for review by team members when requested. DOT Drug and Alcohol educational material will be available to every new team member requiring a CDL.

- E. Return-to-Duty and Follow-Up Testing: The city is not obligated to reinstate or rehire any team members who violate this policy.
- F. All drug test initial positive results are reviewed and interpreted by a physician medical review officer (MRO) before they are reported to the City of New Braunfels. There are some limited, legitimate medical uses which may explain a positive result. For this reason, any non-negative test results are discussed by the MRO with the team member. If use is legitimate, the result will be reported to the city as negative. It is the team member's responsibility to know and understand any medication they are taking, prescribed or non-prescribed, as well as its contents and its residuals. Team members use of substances not regulated by the Federal Drug Administration and have no meaningful guarantee of what is in those substances, utilize them at their own risk. A positive test as determined by the MRO for drugs and/or alcohol may result in disciplinary action up to and including termination of employment.

### **Interdepartmental Promotions and Transfers:**

Department of Transportation (DOT) drug screening shall be administered for team members who are transferring into positions requiring DOT testing if their previous positions did not require that testing. No other team member applying for another job within the City shall be required to submit to drug screening, except as may be required by statute for certain civil service positions.

### **B. Police Functions Exemption**

- A. This policy does not apply to the seizure and possession of alcohol or controlled substances and/or found property as a result of normal Police Department operations.
- B. This policy does not apply to a police officer that is assigned undercover operation by their Manager/Supervisor and must consume alcohol or possess controlled substances as part of the undercover operation.

### **C. Confidentiality**



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All information received by the City through the drug-free workplace program is confidential. Access to this information is limited to those who have a legitimate need to know in compliance with relevant law and management policies. All persons associated with the City's drug abuse and alcohol testing program are prohibited from willfully disclosing test results to City team members who do not have a need to know or persons not eligible to receive test results under applicable law. A team member required to take a drug or alcohol test will be given a copy of the test results upon written request.