



## CITY OF SAN RAFAEL POLICIES AND PROCEDURES

Policy No.	
Subject:	Drug and Alcohol Policy
Resolution No.	
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Prepared By	Leslie Loomis, Human Resources Director
Approved By:	Ken Nordhoff, City Manager

### **DRUG AND ALCOHOL POLICY – NON DOT**

#### **PURPOSE:**

It is the policy of the City of San Rafael to provide a safe, drug-free and alcohol-free work environment for our employees. Being under the influence of drugs and/or alcohol on the job poses serious risks to employee health and safety. This policy sets forth the rights and obligations of covered employees.

#### **RESPONSIBILITY:**

This policy applies to all City employees who are in non-DOT classified positions. All covered employees should be familiar with this policy. **COMPLIANCE WITH THIS POLICY IS A CONDITION OF EMPLOYMENT.** Employees shall refer any questions regarding his/her rights and obligations under the policy to the Director of the Human Resources.

#### **REFERENCES:**

**City of San Rafael EAP Program** - Employees should be aware that the City of San Rafael has established an Employee Assistance Program (EAP) to help employees who need assistance with alcohol and controlled substances abuse.

#### **DEFINITIONS:**

Non-DOT (Department of Transportation) classified employees are those employees not subject to the Department of Transportation rules because they do not provide work in safety sensitive functions, as defined by the Department of Transportation.

#### **POLICY:**

City Employees shall not be under the influence or in possession of controlled substances or alcohol during work hours.

#### **PROCEDURES:**

**The following conduct is prohibited and may result in disciplinary action, up to and including termination:**

## **Drug and Alcohol Policy – Non DOT**

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1. Reporting for duty or remaining on duty while having an alcohol concentration level of .02 or greater;
2. Performing any function or activity which presents a demonstrable danger to the safety of the employee or the safety of others, including but not limited to operating motorized or air powered equipment or motorized vehicles and working with hazardous materials within four hours of using alcohol.
3. Being on duty or operating a City of San Rafael vehicle while possessing alcohol and/or controlled substances;
4. Using alcohol while on duty;
5. Reporting for duty or remaining on duty when the employee has used any controlled substance, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to perform his/her job;
6. Reporting for duty or remaining on duty if the employee tests positive for controlled substances;
7. Refusing to submit to any alcohol or controlled substances test required by this policy. Any employee who refuses to submit to a required drug/alcohol test will be treated in the same manner as an employee who tested 0.04 or greater on an alcohol test or who tested positive on a controlled substances test.

**Refusal to submit to an alcohol or controlled substances test required by the policy includes but is not limited to:**

1. Refusal to provide a urine sample for a drug test or a breath sample for an alcohol test;
2. Inability to provide an adequate breath or urine sample without a valid medical explanation;
3. Refusal to complete and sign the breath alcohol testing or drug testing form, or otherwise to cooperate with the testing process in a way that prevents the completion of the test;
4. Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector; behave in a confrontational way that disrupts the collection process); or
5. Is reported by the MRO as having a verified adulterated or substituted test result;
6. An employee admits to the collector that he or she adulterated or substituted their specimen;
7. Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested;
8. Leaving the scene of an accident without a valid reason as to why authorization was not obtained from a supervisor or manager who shall determine whether to send the employee for a post-accident drug and/or alcohol test;
9. Consuming alcohol during the eight hours immediately following an accident, unless the employee has been informed that his/her actions have been discounted as a contributing factor, or if the employee has been tested.
10. In the case of directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the employee's provision of a specimen;
11. Fail or declines to take a second test the employer or collector has directed the driver to take;
12. The employee behaves in a confrontational way that disrupts the collection process;

## **Drug and Alcohol Policy – Non DOT**

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13. The employee fails to follow the observer's instructions to raise and lower their clothing and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process;
14. The employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process;
15. The employee refuses to wash his or her hands – after being directed to do so.

### **An accident occurs when, as the result of an occurrence:**

1. An individual dies, or
2. An employee receives a citation for a moving violation arising from an accident, and:
  - a. an individual sustains bodily injuries requiring immediate medical treatment away from the accident scene, or
  - b. one or more vehicles is disabled (excluding mechanical failure) and must be towed from the site

An employee shall report any conviction for any drug-related activity to the Human Resources Director within five (5) days after he/she receives notice of the conviction or as soon thereafter as practicable. An employee is not required to report a misdemeanor marijuana conviction that is more than two (2) years old. All employees covered by this policy have previously been provided with a copy of the City's Drug Free Workplace Statement, and have signed an acknowledgment that they have read the Statement and agree to comply with it.

### **Circumstances under which drug and alcohol testing will be imposed on covered employees:**

#### **A. Post-Accident Testing:**

Post-Accident drug and alcohol testing will be conducted on employees following an accident where the employee's performance cannot be discounted as a contributing factor.

The decision as to whether or not to test the employee will be left to a supervisory or management employee. The presumption is for testing. The only reason an employee will not be tested following an accident is if a determination is made that the employee's performance could not have been a contributing factor. If a fatality occurs, the employee will be tested irrespective of whether his/her involvement may be discounted.

Post-accident alcohol tests will be administered within two hours following an accident and no test may be administered after eight hours. A post-accident drug test shall be conducted within 32 hours following the accident.

#### **B. Reasonable Suspicion Testing:**

Covered employees are also required to submit to an alcohol or drug test when a trained supervisor has reasonable suspicion to believe the employee may be under the influence of alcohol or controlled substances. The observation must be based on short-term indicators, but not limited to, blurry eyes, slurred speech, or the smell of alcohol on the breath. The supervisor may not rely on long-term signs, such as absenteeism or tardiness, alone to support the need for a reasonable suspicion test. Although only one trained supervisor is needed to determine

## **Drug and Alcohol Policy – Non DOT**

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reasonable suspicion, when practicable, another trained supervisor may be called upon by the suspecting supervisor to observe the indicator(s).

The reasonable suspicion alcohol test will be administered within two hours of the observation. If not, the employer must provide written documentation as to why the test was not promptly conducted. No test may be administered after eight hours following the observation.

To ensure the supervisors are trained to make reasonable suspicion determinations, supervisors vested with the authority to demand a reasonable suspicion drug and alcohol test will attend at least one hour of training on alcohol misuse and at least one hour of training on controlled substances use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

### **C. Return to Duty/Follow-up Testing:**

A covered employee who has violated any of the prohibitions of this policy as defined above must submit to a return to duty test before he/she may be returned to his/her position. The test result must indicate an alcohol concentration of less than 0.02 or a verified negative result on a controlled substances test.

In addition, because studies have shown that the relapse rate is highest during the first year of recovery, the employee will be subject to follow-up testing. The employee will be subject to up to six unannounced drug/alcohol tests during the first year back to duty following the violation.

### **Procedures to be used for detection of drugs and alcohol**

#### **A. Alcohol Testing:**

Alcohol testing will be conducted by using an evidential breath testing device (EBT) approved by the National Highway Traffic safety administration. A screening test will be conducted first. If the result is an alcohol concentration level less than 0.02, the test is considered a negative test. If the alcohol concentration level is 0.02 or more, a second confirmation test will be conducted. The procedures that will be utilized for collection and testing of the specimen are attached hereto as Attachment A.

#### **B. Drug Testing:**

Drug testing will be conducted pursuant to the procedures set forth in Attachment B.

### **Refusal to submit to an alcohol and/or drug test**

Any employee who refuses to submit to a required drug/alcohol testing will be treated in the same manner as an employee who tested 0.04 or greater on an alcohol test or tested positively on a controlled substances test.

### **Consequences for employees found to have alcohol concentration levels of 0.02 or greater but less than 0.04**

An employee whose test indicates an alcohol concentration level between 0.02 and 0.04 will be removed from his or her job duties for at least 24 hours. Such an employee may be subject to discipline up to and including termination for any such positive test. City of San Rafael will then

**Drug and Alcohol Policy – Non DOT**

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retest the employee. Before the employee may be returned to his/her job duties, the employee's alcohol concentration must indicate a concentration below 0.02.

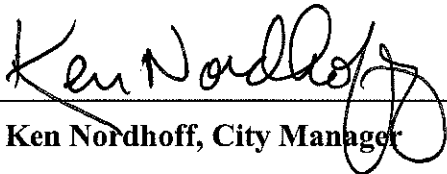
**Consequences of failing an alcohol and/or drug test:**

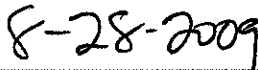
A positive result from a drug test will be cause for discipline up to and including termination. An alcohol test showing an alcohol concentration over .04 may result in disciplinary action, up to and including termination.

If an employee is not terminated, the employee:

1. Must be removed from his/her work duties for at least 24 hours;
2. Must submit to an examination by a substance abuse professional. Upon a determination by the substance abuse professional, the employee may be required to undergo treatment for his/her alcohol or drug abuse. City of San Rafael is not required to pay for the treatment;
3. May not return to his/her work duties until the employee submits to a return-to-duty controlled substance and/or alcohol test (depending on which test the employee failed) which indicates an alcohol concentration level of less than 0.02 or a negative result on a controlled substance test;
4. Will be required to submit to unannounced follow-up testing after he/she has been returned to his/her position. See section A above.

**APPROVED BY:**

  
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Ken Nordhoff, City Manager

  
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Date