



CITY *of* CLOVIS

MEMORANDUM

ADMINISTRATIVE MEMORANDUM NO. 22-01

SUBJECT: Alcohol and Drug-Free Workplace

SOURCE: John Holt, City Manager

DATE ADOPTED: January 1, 1990

DATES REVISED: April 21, 1997, March 16, 2022, January 1, 2024

I. PURPOSE

To define City policy on the requirement for an alcohol/drug-free workplace, alcohol/drug testing, and related matters that occur in the workplace.

II. POLICY

The City of Clovis is committed to protecting the health and safety of individual City employees, their co-workers, and the public at large from the hazards caused by the misuse of alcohol or drugs by City employees. It is the policy of the City of Clovis that employees shall not report to work under the influence of alcohol or drugs, possess alcohol or drugs while on duty or when subject to being called to duty, sell or provide drugs to any employee or to any person while such employee is on duty or subject to being called, or have their ability to work impaired as a result of the use of alcohol or drugs.

III. APPLICATION

This policy shall apply to all employees of the City and to all candidates for employment with the City. This policy shall apply 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 their job. All proceedings and tests under this policy shall be confidential.

IV. POLICY RULES

1. An employee shall not purchase, possess, use, sell, furnish, or be under the influence of alcoholic beverages during the course or performance of their assigned duties. Under no circumstance shall an employee report to the work site under the influence of alcohol.

- a. Employees may, however, participate in City-sponsored functions or promotional activities where alcohol may be served. If the employee chooses to participate, the employee is responsible for ensuring that they do not become impaired by any such participation.
2. An employee shall not purchase possess, use, sell, furnish, or be under the influence of any illegal drug, recreational drugs or controlled substance during the course or performance of their assigned duties or while on City property. Under no circumstance shall the employee report to the work site under the influence of illegal drugs or recreational drugs.
3. An employee shall not purchase possess, use, be under the influence of, sell, or furnish any prescription drug during assigned work hours or while on duty, on City property, or using City equipment. Except that possession and use of prescription drugs by employees during the course or performance of their assigned duties may be permitted when all the following have been met:
 - a. the prescription was issued by authorized medical personnel, the prescription is issued to the employee, and the employee follows the prescription instructions; and
 - b. the employee has consulted with the prescribing physician as to the possible effects of the drug and has informed their supervisor if it is probable that such use of the drug would affect the employee's ability to safely perform their duties; and
 - c. if it is probable that use of the drug would not affect the employee's ability to safely perform their duties, the City, upon receipt of this advice, authorizes the employee to assume their regular duties or a modified assignment to their regular duties. Prior to any such authorization, the City may require review by the City's designated physician.
4. The City shall have the right to search all areas and property in which the City maintains joint or full control with the employee. For this reason, employees are discouraged from bringing personal items to work unless such items are necessary to their employment with the City.
5. City management staff may promulgate additional rules in accordance with this policy, appropriate to the work requirements and responsibilities of their employees.
6. An employee who is reasonably suspected of being under the influence of alcohol or drugs during assigned work hours or while on duty shall submit to an alcohol/drug test as a condition of employment (See Appendix A) if so, requested by management/supervisory personnel.

If convicted of a criminal alcohol or drug offense occurring outside of the workplace, an employee shall notify their supervisor within five calendar days of the conviction.

As a condition of continued employment with the City, employees shall abide by the provisions of this policy. Failure by an employee to follow this policy may subject the employee to discipline up to and including termination, even if it is a first offense.

V. ALCOHOL/DRUG TESTING

1. Employees who are suspected of being under the influence of alcohol or drugs during assigned work hours or while on-duty shall be required to submit to an alcohol/drug test by a physician or laboratory selected by the City. An employee shall be required to undergo an alcohol or drug test if an employee's supervisor has reasonable suspicion that an employee is under the influence of alcohol or drugs. Employees who refuse to submit to an alcohol or drug test shall be subject to disciplinary action up to and including termination.
2. "Reasonable suspicion" must be based on objective facts. Any one of the following characteristics, alone or in combination with others, may constitute reasonable suspicion of alcohol or drug use.
 - a. Slurred speech
 - b. Odor of alcohol on breath
 - c. Inability to walk in a steady manner
 - d. An accident involving City property
 - e. An unexplained employee injury
 - f. Physical altercation
 - g. Verbal altercation
 - h. Possession of alcohol or drugs at work
 - i. Unusual, erratic behavior
 - j. Information obtained from a reliable person with personal knowledge of an employee's substance abuse or use and/or possession of alcohol or drugs in the workplace.
3. Supervisors are required to detail in writing the specific facts, symptoms, or observations that formed the basis for their determination that reasonable suspicion existed and warranted the testing of an employee. This documentation shall be forwarded to the appropriate Department Head and Personnel/Risk Manager within 24 hours of the incident.
4. The City shall develop a program of training to assist supervisory personnel in identifying alcohol and drug use among employees. Such training will be

directed toward helping supervisors recognize the conduct and behavior that give rise to a reasonable suspicion of alcohol or drug use.

5. Upon being ordered to submit to an alcohol/drug test, an employee may request representation in accordance with an approved Memorandum of Understanding. The employee shall endeavor to prevent any delay in securing such representation. However, the employee will be required to submit to the test after one hour from the time the employee was ordered to submit to the alcohol/drug test regardless of representation status.
6. Candidates for employment with the City shall be required to undergo an alcohol/drug test prior to the employment with the City (See Appendix C). Candidates shall be denied employment if they refuse to undergo alcohol/drug testing prior to employment.
7. Before an alcohol/drug test is administered, employees and/or candidates for employment will be asked to sign a consent form authorizing the test and permitting release of test results to those City officials with the need to know. The consent form shall provide space for employees and candidates to acknowledge that they have been notified of the City's alcohol/drug testing policy and to indicate current or recent use of prescription or over-the-counter medication.

The consent form shall also set forth the following information:

- a. the procedure for confirming an initial positive test result;
- b. the consequences of a confirmed positive test result;
- c. the right to explain a confirmed positive test result and any appeal procedure available; and
- d. the consequences of refusing to undergo an alcohol/drug test.

VI. PRIOR NOTICE OF ALCOHOL/DRUG TESTING

The City will provide written notice, if practical, of its alcohol and drug testing policy to all employees and job applicants. The notice shall contain the following information:

- a. the need for alcohol and drug testing;
- b. the circumstances under which testing may be required;
- c. the procedure for confirming an initial positive test result;

- d. the consequences of a confirmed positive test result;
- e. the consequences of refusing to undergo an alcohol/drug test;
- f. the right to explain a positive test result and any appeal procedures available; and
- g. the availability of alcohol/drug abuse counseling and referral services.

VII. CONFIRMATION OF TEST RESULTS

- 1. All alcohol/drug testing shall be performed by a State certified laboratory.
- 2. A positive finding on an initial test shall be confirmed by an alternate laboratory method prior to issuance of a report.
- 3. Every step of the collection, transportation, chain of custody, and testing must be carried out normally without any irregularities before a confirmed positive test is reported.
- 4. Upon the City's receipt of a confirmed positive alcohol/drug test, an employee shall have 24 hours to provide the City with a valid drug prescription in the employee's name that may justify the presence of controlled substances in their system.
- 5. All information from an employee's or a candidate-for-employment's alcohol and drug test shall be confidential and only those with a need to know are to be informed of test results. Disclosure of test results to any other person, agency, or organization shall be prohibited unless written authorization is obtained from the employee or candidate or unless required by law. Any prohibition on the use of the information shall not apply to the City's use of the information for its own defense or for use a part of any disciplinary process against the employee. The results of a positive alcohol/drug test shall not be released until the results are confirmed. The records of unconfirmed positive test results shall be destroyed by the testing laboratory.

VIII. CONSEQUENCES OF VIOLATING THE RULES AND PROVISIONS OF THIS POLICY

- 1. Employees will be subject to disciplinary action up to and including termination if a positive alcohol/drug test is confirmed or if an employee refuses to submit to an alcohol/drug test.
- 2. Employees who receive a confirmed positive alcohol/drug test report or employees who refuse to undergo an alcohol/drug test shall, as a minimum, be subject to a five (5)-day suspension from work without pay, participation in a

substance abuse program approved by the City, and a conditional reinstatement to work.

3. Employees who are reasonably suspected to be under the influence of alcohol or drugs during assigned work hours or while on duty shall be prohibited from engaging in further work and shall not be allowed to operate or utilize any City property. Such employees shall be physically transported by City personnel to the City's physician and thereafter from the work site to their home. Such employees shall not be allowed to drive their personal vehicles from the work site.

IX. EMPLOYEE ASSISTANCE PROGRAM

The City may allow an employee who has been found in violation of this policy to retain their employment with the City provided the employee agrees to participate in a substance abuse program through the City's Employee Assistance Program (EAP).

The City's EAP is designed to help employees overcome substance abuse and other personal/emotional problems in a confidential manner. It is, however, the responsibility of the employee to seek assistance from the EAP before alcohol and drug problems lead to disciplinary action. Once a violation of this policy occurs, subsequent use of the EAP on a voluntary basis will not necessarily lessen disciplinary action and may, in fact, have no bearing on the determination or appropriate disciplinary action.

An employee's decision to seek prior assistance from the EAP will not be used as the basis for disciplinary action and will not be used against the employee in any disciplinary action. Use of the EAP will not, however, be a defense to the imposition of disciplinary action.

Continued employment with the City shall be contingent upon the willingness of the employee to cooperate fully with the plan of treatment recommended by the EAP. An employee who is required to participate in the EAP as a condition of continued employment shall be required to sign a conditional reinstatement in which the employee agrees to comply with the EAP treatment plan (See Appendix B).

If the employee fails to cooperate with their substance abuse program through the EAP or if the employee violates the City's alcohol/drug-free workplace policy again, it shall be grounds for immediate termination. Employees who have completed a substance abuse program through the EAP will not be allowed to repeat the process.

There may be cases involving employee substance abuse when law enforcement personnel may be notified, which could lead to arrest and/or immediate termination. Such situations will generally be confined to flagrant illegal activities within the workplace that are secondarily related to a primary alcohol/drug abuse problem such as drug trafficking, theft, or violent acts. In such situations, the employee may be terminated without having access to the Employee Assistance Program.

APPENDIX A

CITY OF CLOVIS

CONSENT FOR TOXICOLOGICAL TESTS

(REASONABLE SUSPICION)

Name

Occupation

Department

Social Security Number (last four)

Age

Home Address

Home Telephone Number

I hereby consent and agree to give a specimen of my urine and/ or oral fluid to the City of Clovis or any medical facility, laboratory, or medical person designated by the City of Clovis. This specimen shall be used to detect the presence of drugs (including psychoactive cannabis metabolites) alcohol, or medications in my body. I further consent and agree that upon request of the City of Clovis, the laboratory results of any test performed on such specimen shall be furnished to the City of Clovis by the facility chosen by the City of Clovis. I understand that I will be notified in writing of the test results within five days of the test confirmation. After receiving written notification of a confirmed positive drug test, I understand that I will be allowed up to 24 hours to provide an explanation for the presence of intoxicating substances found in my system. I understand that a confirmed positive test could result in disciplinary action up to and including termination. I acknowledge that I may appeal a confirmed positive test result and any subsequent disciplinary action imposed on me per the established grievance procedure. My signature below acknowledges that I have read and understand the foregoing statement and have answered all questions truthfully and voluntarily.

Witness Signature

Employee Signature

Home/Office Phone Numbers

Date

APPENDIX B

CITY OF CLOVIS

CONDITIONAL REINSTATEMENT TO EMPLOYMENT AGREEMENT

The undersigned parties hereby agree as follows:

That _____ (employee's name) recognizes that the City of Clovis was lenient in working with them due to unsatisfactory job performance and in allowing the City's employee assistance/rehabilitation program to help _____ (name) deal with their alcohol/drug abuse problem.

The City will conditionally reinstate _____ (name) after they successfully completes their rehabilitation program at _____ (place). The Employee will be conditionally reinstated provided they agree to and perform the following conditions:

If within the next three years _____ (name) is unable to perform their job duties with the City of Clovis due to alcohol/drug abuse or fails to continue their alcohol/drug rehabilitation program and fulfill all the conditions set forth above, they may be terminated. In further consideration for the City's agreement to conditionally reinstate the Employee, the Employee agrees that should they be terminated under this provision all challenges to the validity of that termination are forever waived including an express waiver of any resort to contractual grievance proceedings and any administrative or judicial claims for wrongful termination.

_____ (name) understands and agrees that if they must be admitted to a hospital or rehabilitation center again for treatment of alcohol/drug abuse within the next three years, they will be subject to immediate termination.

The undersigned and each of them, declare under penalty of perjury that they have read this Conditional Reinstatement to Employment Agreement, understands its terms, and freely and voluntarily consents to and intends to be bound by each provision.

Executed this _____ day of _____, 20__, at _____, California.

EMPLOYEE REPRESENTATIVE

EMPLOYEE

CITY OF CLOVIS

DATE _____

DATE _____

DATE _____

APPENDIX C
CITY OF CLOVIS
CONSENT FOR TOXICOLOGICAL TESTS
(PRE-EMPLOYMENT)

NAME

POSITION APPLYING FOR

DEPARTMENT

SOCIAL SECURITY NUMBER (last four)

AGE

HOME ADDRESS

HOME TELEPHONE NUMBER

I hereby consent and agree to give a specimen of my urine and/or oral fluid to the City of Clovis or any medical facility, laboratory, or medical person designated by the City of Clovis. This specimen shall be used to detect the presence of drugs, alcohol, or medications in my body. I further consent and agree that upon request of the City of Clovis, the laboratory results of any test performed on such specimen shall be furnished to the City of Clovis by the facility chosen by the City of Clovis. I understand that I have the right to obtain a copy of the test results from the City's test facility. I acknowledge that there is no City appeal procedure available to me. My signature below acknowledges that I have read and understand the foregoing statement and have answered all questions truthfully and voluntarily.

Witness Signature

Employee Signature

Home/Office Phone Numbers

Date

Drug-Alcohol Free Workplace