

# CITY OF NORTH POLE

## DRUG AND ALCOHOL POLICY

### SECTION I. INTRODUCTION AND GENERAL INFORMATION

#### A. Drug and Alcohol Prohibition Policy

1. Policy. The City of North Pole has a long-standing commitment to maintain the highest standards possible for the health and safety of its employees, customers, clients, and the public at large. The use of or impairment by drugs and/or alcohol during work time is contrary to these high standards and will not be tolerated.

2. Purpose. The purpose of this Drug and Alcohol Policy (“Policy”) is to maintain the highest safety, health, and work performance standards possible, and to reduce work-related accidents, injuries, and damage, which may be caused by drug or alcohol use or impairment. This policy is also intended to ensure the maintenance of productivity, the quality of products and services, and the security of property.

3. Prohibited Conduct. The following conduct is prohibited, and may result in discipline, up to and including dismissal:

a. The unauthorized use, possession, manufacture, distribution or sale of an illegal drug, controlled substance or drug paraphernalia on or in City owned property (including City-supplied vehicles), while on City business, or during working hours.

b. Storing any illegal drug, drug paraphernalia, or any controlled substance whose use is unauthorized, in or on City-owned or supplied property (including vehicles).

c. Reporting to work, working, or acting or appearing on behalf of the City while under the influence of illegal drugs or a controlled substance whose use is unauthorized.

d. Failing to notify the employee’s supervisor before beginning work that the employee is taking medications or drugs which may interfere with the safe and effective performance of duties.

e. Refusing to immediately submit to a drug or alcohol test when requested by the City , in accordance with this policy.

f. Failing to adhere to the requirements of any drug or alcohol treatment or rehabilitation program in which the employee is participating, either:

- (1) as a condition of continued employment, or
- (2) pursuant to a written agreement between the City and employee.

- g. Violating any criminal drug or alcohol law or statute while working.
- h. Failing to notify the City of any arrest or conviction under any criminal drug or alcohol law or statute by the next work day following the arrest or conviction.
- i. Testing positive for drugs or alcohol in violation of this policy.
- j. Tampering with, adulterating, altering, substituting or otherwise obstructing any drug or alcohol testing process required under this policy.
- k. Reporting to work or remaining on duty requiring the performance of a safety sensitive function while having an alcohol concentration of .04 or greater, or if the employee is otherwise impaired by or under the influence of alcohol. An off duty employee who has consumed alcohol and is called to duty, with less than 12 hours notice, will notify the employer of such and will not report to duty.
- l. Consuming or using alcohol while on duty, or while performing a safety sensitive function.
- m. Performing a safety sensitive function within four hours of consuming or using alcohol. An on-call employee who consumes alcohol within four hours of being called in to perform a safety sensitive function must acknowledge the use of alcohol and may not report for duty.

**B. Effective Date of Policy**

- 1. This policy will become effective on June 24, 2004.
- 2. Each department head shall post the Policy in a prominent location readily accessible to all covered employees.
- 3. A copy of the Policy will be distributed to each employee, who will be required to sign a statement acknowledging receipt of said Policy and his/her agreement to comply with same.

**C. Applicability**

- 1. Individuals Subject to Drug and Alcohol Policy: Any prospective employee or employee whose job performance requires on a regular basis to operate a motor vehicle and/or equipment which poses a risk to life or limb is subject to this policy. Any employee who the City has reasonable suspicion to believe is under the influence of drugs or alcohol while on duty.
- 2. Substances Tested For and Positive Results. The City shall test for alcohol and the following drugs:

Screening levels:

**THC (Marijuana) – 50 ng/ml,  
Cocaine Metab. – 300 ng/ml,  
Opiates – 300 ng/ml,  
PCP (Phencyclidine) – 25 ng/ml, and  
Amphetamines – 1000 ng/ml.**

Confirmation levels (GC/MS)\*:

**THC (Marijuana) – 15+ ng/ml,  
Cocaine Metab. – 150+ ng/ml,  
Opiates – 300+ ng/ml,  
PCP (Phencyclidine) – 25+ ng/ml, and  
Amphetamines – 500+ ng/ml; and  
Alcohol - .04 (tested by Evidential Breath Testing Device).**

- SAMHSA specified threshold

Test results at or above the confirmation level will be considered a positive test.

#### **D. Circumstances Under Which Testing May be Conducted**

The City will test employees for drugs and/or alcohol under the following conditions:

1. Pre-Employment Testing. A pre-employment drug and alcohol test of all prospective employees designated in Section 1.C.1 will be conducted. A positive test result is grounds for denying employment and a negative result is required prior to reporting for work.

#### 2. Post-Accident Testing

a. Persons Subject to Post-Accident Testing. Employees whom the City reasonably believes may have contributed to an accident in the workplace or contributed to an accident during work time may be required to undergo drug and/or alcohol impairment testing. A police officer shall be dispatched to the scene of any accident to determine if there is reasonable suspicion for post accident testing. Such a test will be conducted as soon as practicable after the accident, but not later than 32 hours after the accident for drugs and not later than four (4) hours for alcohol. The City of North Pole will make reasonable attempts to obtain a sample from an employee after an accident, but any injury should be treated first.

b. Obligations of Employee Subject to Post-Accident Testing.

1. An employee who is subject to post-accident testing may not consume alcohol for 8 hours after the accident, or until he/she has taken an alcohol test, whichever occurs first.

2. An employee who is subject to post-accident testing must remain readily available for such testing and will be transported to a clinic for drug testing and may not take any action to interfere with the testing or the results of testing.

3. Employees who do not comply with the post-accident testing requirements, or who fail or refuse to provide a sample for testing, will be considered to have refused to submit to testing and will be subject to appropriate disciplinary action, including termination.

### 3. Reasonable Suspicion Testing

All employees employed by the City of North pole in any position, whom the City reasonably suspects may be affected by the use of drugs or alcohol which may adversely affect job performance, safety or the work environment may be required to submit to a drug and/or alcohol test. Reasonable suspicion testing is done to identify drug and alcohol affected employees who may pose a danger to themselves or others in their job performance.

Supervisors who suspect an employee to be impaired or under the influence of a drug or alcohol while on duty will contact the City of North Pole Program Manager who will coordinate with the appropriated agency to have the determination made.

#### a. When Reasonable Suspicion Exists

The decision to test must be based on a reasonable and articulated suspicion or belief that the employee is under the influence of an unauthorized drug or alcohol. Reasonable suspicion is a belief based on contemporaneous articulate observations concerning the employee's appearance, behavior, speech or body odors, or other reliable evidence or information that the employee is under the influence of or impaired by drugs or alcohol. For example, any of the following, either alone or in combination, may constitute reasonable suspicion:

1. Slurred speech;
2. Irregular or unusual speech patterns;
3. Impaired judgment;
4. Alcohol odor on breath;
5. Uncoordinated walking or movement;
6. Unusual or irregular behavior such as inattentiveness, listlessness, hyperactivity, hostility or aggressiveness;
7. Possession of drugs or alcohol;
8. Observation of drug or alcohol use prior to reporting to work or during working hours;

Reasonable suspicion determinations will be made by representative of the City of North Pole who have received training concerning the signs of symptoms of drug and alcohol use.

The observing supervisor shall document the events and record the behavioral signs and symptoms that support the reasonable suspicion. If possible, a second supervisor should also observe the employee to verify that there is a reasonable basis to believe that a drug or alcohol violation has occurred.

b. Events After Determinations Is Made

When a determination is made that reasonable suspicion exists that an employee is under the influence of drugs or alcohol in violation of this policy, the employee shall be immediately relieved of his/her duties, pending further action. For suspected alcohol use, the employee will submit to evidential breath testing by a trained North Pole police Officer and witnessed by the City of North Pole Program Manager. For suspected drug use, the employee will be transported to a clinic for drug testing.

c. Reports of Violation by Supervisory Personnel

If a non-supervisory employee has reason to believe that a supervisor subject to this policy is under the influence of drugs or alcohol at work in violation of this policy, then he/she shall report such potential violation to the City of North Pole Program Manager who will thereafter take appropriate action.

4. Return-to-Duty Testing

An employee who refuses to take or fails a drug test and whose employment is not terminated may not return-to-duty until he/she is evaluated by the Substance Abuse Professional (SAP), passes a drug test, and the Drug Program manager and City of North Pole Program Manager has determined that the employee may return to work.

An employee who refuses to take or fails an alcohol test and whose employment is not terminated may not return to work until the employee is evaluated by a Substance Abuse Professional and has completed the recommended treatment.

5. Follow-Up Testing

An employee who is referred for assistance related to drug or alcohol misuse may be subject to unannounced follow-up testing for a period not to exceed 36 months, as directed by the SAP. The number and frequency of follow-up testing will be determined by the SAP and the City, but will not be less than six tests in the first 12 months following the employee's return to duty. Follow-up testing will be conducted immediately prior to, during or immediately preceding work time for that employee.

## **SECTION II. CONSEQUENCES OF VIOLATING POLICY**

### **A. General.**

Compliance with this policy is a condition of employment. Refusal to take a required drug or alcohol test, a positive drug or alcohol test, or engaging in an activity or behavior which otherwise violates this Policy shall, at a minimum, result in removal from performing assigned functions. Additional disciplinary action as outlined in North Pole Municipal Code, Section 2.36.310 may be applied.

### **B . Violations and Discipline.**

The City may take adverse employment action, up to and including dismissal, based on:

1. a positive drug or alcohol test result;
2. a prospective employee or employee's refusal to provide a drug or alcohol testing sample, or
3. Otherwise violating the terms and requirements of this policy.

Adverse employment actions may be taken as outlined in North Pole Municipal Code, Section 2.36.310, Forms of Disciplinary Action and may include:

1. A requirement that the employee enroll in a City-provided or approved rehabilitation, treatment or counseling program. This program may include additional drug and alcohol testing. Participation in such a program is a condition of employment. Costs of participating in such a program will be borne by the employee:
2. In the case of drug testing, refusal to hire the prospective employee.

### **C. Requirements For Return-To Duty.**

An employee who is not terminated for violating this policy may be given the opportunity to return to work provided he/she first:

1. Receives a recommended return to work evaluation by a SAP and the Medical Review Officer;
2. Passes a Return to Work drug and/or alcohol test;
3. Continues to receive negative drug or alcohol test results in follow-up tests after returning to duty; and
4. Participates in and successfully completes any applicable City approved evaluation/rehabilitation program.

## **SECTION III. SAMPLE COLLECTION AND TESTING PROCEDURES**

### **A. Collection of Samples**

1. Testing under this policy is a urinalysis (for drugs) and an evidential breath testing device (for alcohol) administered under approved conditions and procedures conducted for the sole purpose of detecting drugs or alcohol. Other on-site methods to detect the presence of alcohol may also be used, including blood/alcohol and saliva tests.

The test will be conducted by a City-appointed medical laboratory and paid for by the City. Sample collection and testing will be performed under reasonable and sanitary conditions.

2. The collection site shall have all necessary trained personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of specimens to a certified drug testing laboratory designated by the City of North Pole. An independent medical facility may also be utilized as a collection site.

3. All drug test samples will be collected by the split sample collection method.

4. The person collecting the drug sample will document the sample, including labeling the sample to preclude to the extent reasonable the possibility of misidentification of the person tested in relation to the test result provided.

5. The person collecting the sample shall provide the person to be tested with an opportunity to provide medical information that may be relevant to the test, including identifying current or recently used prescription and nonprescription drugs.

6. Sample collection, storage, and transportation to the testing place shall be performed in a manner reasonably designed to preclude the possibility of sample contamination, adulteration or misidentification.

7. An employee designated for testing must provide reliable individual identification to the person collecting the sample.

8. Drug and alcohol test will normally be scheduled during, or immediately before or after, the employee's regular work period or work time. Testing under this policy is considered work time and will be compensated at the employee's normal rate of pay.

9. Sample collection will be performed in a manner, which ensures the individual employee's privacy to the maximum extent consistent with ensuring that the sample is not contaminated, adulterated, or misidentified.

10. The City will pay the entire actual costs for drug and alcohol testing required of employees and prospective employees. The City shall also transport employees suspected under the influence of drugs or alcohol to a certified drug testing laboratory.

## **B. Testing Procedures**

1. Unless testing is conducted on-site, the City of North Pole shall use a drug-testing laboratory approved or certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) or the College of American Pathologists, American Association of Clinical Chemist.
2. The laboratory shall permit inspections by the City of North Pole Program Manager.
3. The City may use a rapid test kit if the requirements of AS§23.10.645 through §23.10.650 have been met. If the rapid test is positive, the sample will be sent to the designated laboratory for confirmation.
4. Positive drug tests will be confirmed by a gas chromatography mass spectrometry. The City will not rely on a positive drug test unless the confirming drug test results have been reviewed by a licensed physician or doctor of osteopathy.
5. Alcohol testing will be performed by a breath alcohol technician (BAT) (breath alcohol testing supervisor or operator). If the result of an alcohol screening test is an alcohol concentration of 0.05 or greater, a confirmation test will be performed. The confirmation test will generally be done within 15, but not more than 30, minutes of the screening test. The results of these tests will be reported directly to the City of North Pole Program Manager. Additionally, the employee will be offered the opportunity to have an immediate blood sample taken by an independent physician.

## **C. Review of Drug Test Results**

### **1. Medical Review Officer.**

The City of North Pole shall contract the services of a Medical Review Officer (MRO). The MRO shall be a licensed physician or doctor of osteopathy. The MRO shall review all confirmed positive drug test results and interview individuals tested positive to verify the laboratory report. The MRO in conjunction with the Substance Abuse Professional may also evaluate and recommend to the City of North Pole Program Manager whether and when an employee who either refuses to test or tests positive may return to work. The MRO may schedule follow-up unannounced drug testing for a period of up to 36 months.

### **2. Reporting and Review of Results.**

- a. The MRO shall review confirmed positive test results.
- b. The MRO shall contact the employee within 48 hours and offer an opportunity to discuss the confirmed test result and explain any reason for the positive results.
- c. The MRO shall accomplish both a and b above prior to the transmission of results to the City's Drug Program Manager.

### 3. Legal Drug Use.

If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO shall report the test as negative. Test results that have been caused by prescription medication will be reported as negative. The burden of proof shall be on the employee to establish that a positive test result was caused by prescription drug use.

### 4. Written Test Results.

An employee may obtain a copy of the written test results only upon written request made within six months of the date of the test. The City will provide the written test results to the employee pursuant to that request within five working days of its receipt.

### 5. Explanation of Positive Test by Employee.

An Employee who would like an opportunity to explain a positive tests result to the City of North Pole Drug Program Manager in a confidential setting must make such a request in writing to the City of North Pole Drug Program Manager within 10 working days of being notified of the test result. An employee who submits such a timely written request will be given the opportunity, within 72 hours after its receipt or before taking adverse employment action, to explain the positive test in a confidential setting.

## **SECTION IV. EMPLOYEE ASSISTANCE PROGRAM (EAP)**

### **A. Scope of Program**

The Employee Assistance Program will provide education and training on drug and alcohol use of all employees. The education shall include:

1. Informational material distributed to employees as well as displayed on bulletin boards, employee break rooms, locker rooms, etc.;
2. A community service hot line telephone number for employee assistance displayed on bulletin boards and distributed to employees; and,
3. Distribution of the City of North Pole policy regarding the use of prohibited drugs and alcohol to all new employees. The policy shall be displayed in prominent places throughout the City of North Pole.

### **B. Supervisor Training**

Supervisor personnel will receive training regarding the DRUG AND ALCOHOL POLICY. The training shall include training on the use of controlled substances, and training on alcohol misuse. This training shall be for all supervisors.

## **SECTION V. CONFIDENTIALITY OF RESULTS**

### **A. General**

1. All records relating to drug and alcohol testing will be maintained in a confidential medical file in a secure location with controlled access, separate from personnel files and will be expunged after a period of being drug free for 36 months.

2. A communication received by the City relevant to drug or alcohol test results and received through the City's testing program is confidential and privileged, and will not be disclosed by the City except:

a. To the tested employee, prospective employee or another person designated in writing by the employee or prospective employee;

b. An individual designated by an employer to receive and evaluate test results or hear the explanation from the employee or prospective employee;

c. As ordered by a court or governmental agency; or

d. In any proceeding initiated by or on behalf of the individual and arising from a positive test.

## SECTION VI. DEFINITIONS

**Accident** means an event where damage to property, injury to persons or death occurs.

**Alcohol** means ethanol, isopropanol, or methanol.

**Alcohol concentration** means the alcohol in a volume of breath expressed in terms of grams of alcohol – per 210 liters of breath-as indicated by an evidential breath test.

**Alcohol Use** means the consumption of any beverage or mixture, including any medication or mouthwash containing alcohol.

**Breath Alcohol Technician (BAT)** means an individual who operates an EBT and instructs and assists individuals in the alcohol testing process.

**Collection Site Person** Is an individual authorized by the City of North Pole to collect samples in accordance with this policy and trained in procedures for such collections. The City of North Pole has chosen to follow the highest industry standards for work place collection, testing, and reporting of test results; therefore, the City of North Pole procedures will attempt to follow, as a guide only, the federal drug testing procedures.

**Drug(s)** means a substances considered unlawful under AS 11.71 or under federal law, or the metabolite of the substance.

**Drug Testing** means testing for evidence of the use of a drug.

**Evidential Breath Testing Device (EBT)** is a device approved by the national Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath, and is placed on NHTSA's "Conforming Products List" (CPL) of evidential breath measurement devices. (a device approved for use by the Statewide Breath Alcohol program).

**Employee Assistance Program (EAP)** means a confidential counseling/referral service for employees and their dependents. EAP is designed to provide assistance to employees and their families to deal with personal problems which may affect their productivity, health, or continued employment. All counseling, assessment, and referral services will be provided by qualified, experience clinicians with special training in short-term counseling and in assessing and treating substance abuse problems (See SAP).

**Failing a Drug Test** shall mean the test results show positive evidence of the presence of a drug or drug metabolite in an employee's system in amounts that exceed cutoff levels established by this policy and is not caused by legally prescribed drugs/medications. The burden of proof shall be on the employee to establish that a positive test result was cause by prescription drug use.

**Medical Review Officer (MRO)** is the licensed physician or doctor of osteopathy who is responsible for reviewing positive laboratory results generated by the City of North Pole testing program.

**Prospective Employee** means a person who has made application to an employer, whether oral or written, to become an employee and who has been made a conditional offer of employment.

**Random** means a scientifically valid method that ensures that all covered employees have an equal chance of being selected.

**Sample** means urine or breath from the person being tested.

Screening Test or Initial Test means an analytic procedure to determine whether an employee may have a prohibited concentration of drugs or alcohol in a specimen.

**Rapid Test** means a test designed to provide an instant screened test result.

**Refusal to submit** means failure to cooperate and provide a drug or alcohol sample, after receiving notice of the test in accordance with the City of North Pole Drug and alcohol Policy. A refusal will be treated the same as a positive test result. A refusal to test for alcohol occurs when a covered employee fails to provide an adequate breath for testing without a valid medical explanation after receiving notice of the requirement to be tested in accordance with the provisions of the City of North Pole alcohol misuse prevention plan or engages in conduct that clearly obstructs the testing process.

**Substance Abuse Professional (SAP)** means a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (“Certified by the national Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol & Other Drug Abuse”) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance related disorders.