

RESOLUTION NO. 1485

A RESOLUTION APPROVING THE CITY OF WEST BRANCH, IOWA DRUG AND ALCOHOL POLICY

WHEREAS, the City of West Branch is committed to ensuring that its employees work in a safe, drug-free environment; and

WHEREAS, it is well recognized that individuals who use illicit drugs or use alcohol are more likely to have workplace accidents and perform their work in an inefficient and substandard manner; and

WHEREAS, the City Council was presented with the City of West Branch, Iowa Drug and Alcohol Policy at the June 6, 2016 City Council Meeting and discussed the policy at that meeting; and

WHEREAS, it is now necessary for the City Council to approve said policy.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of West Branch, Iowa:

Section 1. The City Council hereby approves the attached policy entitled "City of West Branch, Iowa Drug and Alcohol Policy."

Section 2. All Resolutions or parts of Resolutions in conflict with the provisions of this resolution are hereby repealed.

PASSED AND APPROVED, this 27th day of June 2016.



Roger Laughlin, Mayor

ATTEST:



Matt Muckler, City Administrator/Clerk

CITY OF WEST BRANCH, IOWA DRUG AND ALCOHOL POLICY

The City of West Branch (hereinafter "City") is committed to ensuring that its employees work in a safe, drug-free environment. It is well recognized that individuals who use illicit drugs or use alcohol are more likely to have workplace accidents and perform their work in an inefficient and substandard manner.

To effectuate this commitment, the City has determined that it must take the necessary steps to ensure that City employees are free from the influence of drugs and/or alcohol while performing their duties. The City has developed the following Drug and Alcohol Testing Policy which covers all City employees not otherwise affected by state or federal drug testing laws. This policy is applicable to all applicants for city positions and all city employees at any time they are actually performing, preparing to perform, or immediately available to perform any paid function as designated by the City.

All employees in positions requiring Commercial Drivers Licenses are subject to the federal and state laws requiring drug and alcohol testing, and those laws supersede the provisions of this policy. The Federal Transit Administration has adopted drug and alcohol testing procedures covering safety-sensitive employees engaged in mass transit and those laws also supersede the provisions of this policy.

DEFINITIONS:

- A. **Safety Sensitive Employee:** A safety sensitive employee is an employee working in a position wherein an accident or an error could cause the loss of human life, serious bodily injury, or significant property or environmental damage, including a position with duties that include immediate supervision of a person in a job that meet the requirements of this paragraph. However, the City reserves the right to add or remove positions from its list of safety sensitive positions at any time. This includes part-time safety sensitive employees.
- B. **Reasonable Suspicion Drug and Alcohol Test:** Drug or alcohol tests based upon evidence that an employee is using or has used alcohol or other drugs in violation of this written policy. Evidence in support of such a violation is drawn from specific objectives, articulable facts, and reasonable inferences drawn from those facts in light of training and experience. For the purposes of this paragraph, facts and inferences may be based upon, but are not limited to, any of the following:
 - 1. Observations while at work, such as direct observation of alcohol or drug use or abuse, or physical symptoms or manifestations of being impaired due to alcohol or drug use as described in the educational materials provided to employees.
 - 2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
 - 3. A credible source's report of alcohol use or the use of drugs. The City Administrator will have the final determination of who is a credible source.

4. Evidence that an individual has tampered with any drug or alcohol test during the individual's employment with the City.
 5. Evidence that an employee has caused an accident while at work which resulted in an injury to a person for which injury, if suffered by an employee, a record or report could be required under Chapter 88 of the Iowa Code, or an accident that resulted in damage to property, including equipment, in an amount reasonably estimated at the time of the accident to exceed One Thousand Dollars (\$1,000.00).
 6. Evidence that an employee has manufactured, sold, distributed/solicited, possessed, used or transferred drugs while on the employer's premises, or while operating the employer's vehicle, machinery, or equipment.
 7. The employee's statement or admissions of drug use while he or she is a City employee.
- C. **Positive Test:** An employee tests positive for drugs if any trace of an illegal substance is detected following a drug test. An employee tests positive for alcohol if he or she has a blood alcohol concentration equal to 0.04 or greater.
- D. **Illegal Drugs/Substances:** Any substance that is illegal by law has not been legally obtained, or which cannot be legally obtained. This includes prescription medication for which the employee does not have a prescription and/or is not taken according to the prescription.
- E. **City Official:** Elected officers of the City including the Mayor and City Council members.

POLICY STATEMENT/PROCEDURES:

A. Prohibited Activity:

1. No employee shall illegally use, sell, transfer, purchase, or possess drugs, alcohol, controlled substances, or drug paraphernalia, or any combination thereof while in a City facility, vehicle, vessel, or aircraft or while performing City business, including business conducted in the employee's own home.
2. No employee shall report for work while under the influence of illegal drugs or alcohol. Furthermore no employee shall report to work within four (4) hours of consuming alcohol even if the employee does not believe he or she is under the influence of alcohol during that time.
3. No employee shall use illegal drugs or consume alcohol while at work.
4. No employee shall use prescription drugs unless: (1) a doctor has prescribed the medication to the employee; and (2) the doctor has advised the employee that the drug will not adversely affect the employee's ability to perform the essential duties of his or her job without endangering the public's, coworkers', or the employee's safety.
 - a. Any employee using properly prescribed drugs that may impair the employee or affect the employee's job performance shall notify his or her immediate supervisor about the use of the drug. A drug may impair an employee or affect an employee's job performance if it may cause the employee dizziness or

drowsiness or the employee or the employee's doctor believe the drug will impair the employee or affect the employee's job performance in some way.

- b. If an employee is using a prescription drug and his or her doctor has advised him or her that the drug may adversely affect the employee's ability to perform the essential duties of his or her job, the employee shall advise his or her supervisor of the adverse effects and the prescribed period of use.
 - c. Supervisors shall document this information through the use of an internal memorandum and maintain this memorandum in the medical file of the employee maintained by Finance Officer/Treasurer/Deputy City Clerk. See subsection G for information regarding the storage of drug test results and other medical information.
 - d. Any employee using properly prescribed prescription drugs must carry the medication in its original container and the container must be labeled with the employee's name, employee's doctor, dosage, and the name of the drug prescribed.
5. Any employee who unintentionally ingests or is made to ingest a controlled substance shall immediately report the incident to his or her supervisor so that appropriate medical steps may be taken to ensure the employee's health and safety.

B. Notification:

1. The City will notify applicants of this drug and alcohol testing policy at the time of his or her first interview.
2. The City will provide all employees with drug and alcohol education, including the effects of drugs and alcohol, signs and symptoms of drug and alcohol use, assistance available for those abusing drugs and alcohol, drugs and alcohol to be tested, and drug and alcohol testing requirements.
3. All drug testing results and other confidential information will be kept confidential.
4. Each employee and applicant will sign a form acknowledging receipt of these materials.

C. Prospective Employee Drug Testing:

1. All prospective, safety sensitive employees who have been extended a conditional offer of employment with the City shall be informed that a condition of employment includes passing a drug test as part of the pre-employment process.
2. If a prospective, safety-sensitive employee refuses to take a pre-employment drug test when scheduled or tests positive for a substance, that employee is ineligible for City employment for one (1) calendar year from the date of the drug test.

3. If an employee is transferred to a safety-sensitive position, drug and alcohol testing under this policy is a condition of the transfer.
4. For part-time prospective employees, if the prospective employee is covered under another Law Enforcement Agency's drug test policy, the prospective employee may bring proof that he or she is covered under the other policy and the City Administrator may waive the requirement that the prospective employee be drug tested.

D. Employee Drug Testing:

1. Random Testing

- a. Because of the safety-sensitive nature of their employment, employees with safety-sensitive job duties may be required to take a drug test as a condition of continued employment in order to ascertain prohibited drug use, as provided below:
 - i. The City may conduct random drug and alcohol testing on safety sensitive employees who are not covered by another drug/alcohol testing policy mandated by the state or federal government without individualized suspicion.
 - ii. The selection of employees to be tested from the pool of employees subject to testing shall be done based on a computerized randomly generated selection process administered by a third-party, in which each member of the employee pool has an equal chance of selection.
 - iii. All random drug testing will be uniform and unannounced.
 - iv. The City Administrator will determine the frequency and timing of the random drug testing.
 - v. For part-time employees covered under another Law Enforcement Agency's drug testing policy, those employees may bring proof that they are covered under the other policy to the City Administrator who may then waive the requirement that the employee be drug tested. The City Administrator shall keep a copy of the policy in the employee's personnel file and if at any time the employee is no longer subject to drug testing, he or she shall notify the City Administrator immediately.

2. Post-Accident Testing

- a. After an accident, testing shall be conducted on employees whose performance could have contributed to the accident if (1) it is required by state or federal law; or (2) reasonable suspicion exists.

3. Reasonable Suspicion Testing

- a. When any supervisor, manager, or City Official has reasonable suspicion that a City employee is under the influence of drugs or alcohol while on duty, or otherwise violating the terms of this policy, that supervisor, manager, or official shall require reasonable suspicion testing.
- b. If reasonable suspicion testing is required, the employee will not be permitted to drive to or from the testing or while at work until the test is returned, and then, only if the test produces negative results. The City will provide transportation to/from the testing at the City's expense if necessary.

E. Drug Testing Procedures:

1. Drug and alcohol testing shall require the employee to present a reliable form of photo identification to the person collecting the sample.
2. Drug testing will be conducted at a location designated by a supervisor or the City Administrator.
3. The City will designate the type of testing to be performed on the sample collected.
4. Drug and alcohol testing shall normally occur during or immediately before working hours begin or immediately after working hours. The time required for such testing shall be considered work time for the purpose of compensation and benefits.
5. A specimen testing positive will undergo an additional test to confirm the initial result.
6. The drug screening tests selected shall be capable of identifying every major drug likely to be abused including, but not limited to, marijuana, cocaine, heroin, amphetamine, and barbiturates. Personnel utilized for testing will be certified as qualified to collect urine samples or adequately trained in the collection process.
7. Any employee who breaches the confidentiality of testing information shall be subject to discipline.
8. The City shall pay all testing costs for pre-employment, reasonable suspicion, regularly scheduled, or follow-up drug or alcohol testing ordered by the City.
9. In conducting drug or alcohol testing pursuant to this policy, the laboratory, the Medical Review Officer, and the City shall ensure, to the extent feasible, that the testing records maintained by the City show only such information required to confirm or rule out the presence of prohibited alcohol or drugs in the body.

F. Post-Testing Procedures:

1. Employees having negative drug test results shall receive a memorandum stating that no illegal drugs were found. The employee may request a copy of the memorandum be placed in the employee's medical file.

2. An employee who has a positive drug or alcohol test, either from random testing or reasonable suspicion testing, shall be subject to disciplinary action up to and including discharge.
3. If the employee is permitted to return to work, the employee may be required to submit to evaluation by a Substance Abuse Professional and undergo treatment recommended by the Substance Abuse Professional prior to returning to work. If the employee successfully completes the treatment, no further disciplinary action will be taken against the employee. If the employee refuses to submit to the evaluation or fails to successfully complete treatment, the employee will be subject to further discipline up to and including discharge.
4. If the Substance Abuse Professional determines that the employee has a drug or alcohol related problem the employee will be required to do follow-up testing upon the employee's return to work. All follow-up testing will be unannounced and without prior notice to the employee and will be at the employee's expense.

G. Drug Test Results:

1. All records pertaining to required drug tests shall remain confidential and shall not be provided to other employees or agencies, with the exception of the West Branch City Administrator and Finance Officer/Treasurer/Deputy City Clerk, without the written permission of the person whose records are sought. The City Administrator and Finance Officer/Treasurer/Deputy City Clerk shall have access to the records for purposes of employment decisions. Computerized record keeping shall comply with this provision of the policy.
2. Drug test results and records shall be stored and securely retained for an indefinite period in an employee medical file maintained by the Finance Officer/Treasurer/Deputy City Clerk.

H. Responsibility:

1. It shall be the responsibility of the City Administrator to enforce this policy. Employees are expected to report any suspicious behavior or suspected drug abuse of an employee.
2. It is the responsibility of each employee to abide by the procedures as outlined. Any employee refusing to submit to a drug test request made under this policy will be subject to discipline up to and including discharge.