

# City of Twinsburg



Est. 1817

## DRUG-FREE WORKPLACE POLICY

### I. STATEMENT OF POLICY

The Administration of the City of Twinsburg is determined to provide a safe workplace for all employees. The City's policy on substance abuse is intended to promote and ensure a drug free workplace in a manner consistent with applicable laws including the Drug-Free Workplace Act of 1988 and the Omnibus Transportation Act of 1991. The City is concerned with the health and well being of its employees; it cannot condone and will not tolerate behaviors on the part of employees that relate to substance use, such as:

- Use of illegal drugs;
- Misuse of legal drugs (prescription or over-the-counter medication);
- Misuse of alcohol;
- Sale, purchase, transfer, use or possession of any illegal drugs, or prescription drugs obtained illegally;
- The arrival at work or return to work under the influence of any drug (legal or illegal) or alcohol to the extent that job performance is affected.

This document sets forth the City's Drug-Free Workplace Program. Every employee is required and expected to read and understand it. The Policy applies to *every* employee of the City of Twinsburg. If any employee violates the City's Drug-Free Workplace Policy, the consequences stated herein will apply.

The City will hold all employees accountable with respect to substance use issues, but also supports rehabilitation. In this regard, the City provides CONCERN (800-989-3277) a confidential Employee Assistance Program offered through Marymount Hospital. No employee who voluntarily seeks assistance for a substance abuse problem *prior to detection* shall have job security or other terms and conditions of employment affected provided the employee completes an appropriate rehabilitation program. An employee with a substance use problem, who does not voluntarily seek assistance, and is found to be in violation of this Policy, will be disciplined per the guidelines of this policy.

Employees whose positions are subject to special law or regulation (federal, state, local or otherwise) may face additional requirements in terms of substance abuse. If federal law establishes a zero threshold for certain designated drugs, or alcohol, employees in these positions who test positive are subject to discipline up to and including termination of employment. Other consequences that apply to all employees who violate this Policy are set forth within this document.

This Policy covers the five key components of the City's Drug-Free Workplace Program:

- A written policy;
- Substance awareness education for all employees;
- Training for supervisors to help them understand the program and their responsibilities;
- Drug and alcohol testing;
- Employee assistance for those who voluntarily address a drug abuse problem or who test positive for drugs or alcohol.

Each of these program components is explained in detail in the pages that follow. In addition, the City has designated the Director of Human Resources and the Benefits Administrator as Drug-Free Workplace Administrators, to give employees a confidential contact to answer questions and to provide explanations about the Policy.

## ***II. EMPLOYEE TESTING***

Employees will be tested for the presence of drugs in the urine and/or alcohol on the breath under any and/or all of the following conditions:

### **1. Pre-employment Drug Testing**

As part of the city's employment procedures, all full time candidates will be required to undergo a pre-employment medical examination and a drug screen/test that is conducted by a medial facility designated by the City. All newly hired employees as well as those employees promoted or transferred into a safety sensitive position shall be required to successfully complete a drug test prior to performing any safety sensitive functions. Returning Seasonal/Intermittent employees must undergo an annual drug screen. Any offer of employment from the City is contingent upon satisfactory completion of this examination and/or screening, and the determination by the City and its examining physician that the applicant is capable of performing the responsibilities of the position that has been offered. The City may also request and receive drug and alcohol test information from previous employers when an employee is applying for a DOT driving position.

### **2. Random Testing**

All safety sensitive employees will be subject to unannounced quarterly random testing for drugs and alcohol. Twinsburg Urgent Care, through its contracted, federally approved consortium, will utilize objective computer software that ensures a truly random selection process in which all employees in the testing pool have an equal statistical likelihood of being selected for testing. At any given random draw, all employees are again included in the pool with an equal chance of selection, regardless of any previous selection. A safety sensitive employee selected for random testing must proceed or will be escorted immediately upon notification to the collection site. A refusal to submit to a random test or conduct which does not lead to a collection as soon as possible shall subject the employee to disqualification and discipline, up to and including discharge. A percentage equal to at least 25 percent of the average number of covered employees, or other percentage provided by federal law or regulation, will be tested for drugs and a percentage equal to at least 10 percent, or other percentage established by federal law or regulation, of the average number of covered employees will be tested for alcohol annually.

### **3. Post-Accident Testing**

Per the Accident Reporting procedures, all employees must complete an Accident/Incident Report as soon as possible after the accident or incident. Post-accident drug and alcohol testing will be conducted whenever a workplace accident occurs. An accident is defined as an unplanned, unexpected or unintended event that occurs during the conduct of the employer's business, or during working hours, or which involves employer supplied motor vehicles or motor vehicles that are used in conducting City business, or is within the scope of employment, and which results in any of the following:

- An employee of the City is involved in an accident where there is a fatality of anyone involved in the accident.
- An employee of the City is involved in an employment related accident that caused bodily injury to the employee and/or another person that requires off-site medical attention away from the employer's place of employment.
- A Police Department Sergeant, Lieutenant or Chief may elect not to test a police officer only on the rare occasion when that officer is injured as a result of a physical scuffle with a third party in the course of

performing a normal job function, which does not violate work rules or generate a reasonable suspicion of a violation of the City's DFWP policy.

- An employee of the City is involved in an employment related accident that causes vehicular, property or equipment damage in apparent excess of \$500.
- An employee of the City is issued a citation for a moving traffic violation arising from a vehicular accident that occurred during the employee's scope of employment with the City.

### ***Drug and/or Alcohol Testing After An Accident***

Following any accident, the driver must contact their supervisor, or any management official on duty as soon as possible. A refusal to submit to post-accident drug or alcohol test shall subject the employee to discipline up to and including discharge. The City may substitute tests for use of drugs or alcohol administered by police or other public safety officer under separate authority in lieu of conducting its own testing. The employee must sign a release allowing the City to obtain results from such Federal, State or Local officials. A post-accident alcohol or drug test shall be collected as soon as possible following the accident. Breath or saliva alcohol testing will be performed within two (2) hours of the incident whenever possible, but within eight (8) hours. If no alcohol collection can be made within eight (8) hours, attempts to collect a breath sample shall cease. If no urine sample can be obtained for purposes of a post-accident drug test within thirty-two (32) hours, attempts to make such collection shall cease. The supervisor or management shall transport or accompany the employee to report to the collection site immediately. If the employee responsible for the employment-related accident is injured, that employee herein expressly grants unto the City, its officers and management, the right to request that attending medical personnel obtain appropriate specimens (breath, blood and/or urine) for the purpose of conducting alcohol and/or drug testing. Further, all employees herein expressly grant unto the City, its officers and management, access to any and all other medical information that may be relevant in conducting a complete and thorough investigation of the employment-related accident, to include, but not be limited to a full medical report from the examining physician(s) or other health care providers.

### **Reasonable Suspicion Testing**

Any employee of the City who is personally observed, on duty, by at least one trained supervisor and/or management employee manifesting physical or behavioral symptoms, appearances, reactions, speech, or odors commonly associated with alcohol or controlled substance use or impairment shall be subject to testing.

Reasonable suspicion testing may be based upon, among other things:

- Observable phenomena, such as direct observation of drug or alcohol use or possession and/or the physical symptoms of being under the influence of a drug or alcohol;
- A pattern of abnormal conduct or erratic behavior;
- Arrest or conviction for a drug or alcohol related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking. The employee is responsible for notifying the City within five (5) working days of any drug-related conviction.
- Information either provided by reliable and credible sources or independently corroborated source regarding an employee's substance use.
- Newly discovered evidence that the employee has tampered with a previous drug or alcohol test.

The observing supervisor or management employee should document, in writing, the grounds for his reasonable suspicion within 24 hours of the event or prior to the release of the test findings, whichever occurs first. A reasonable suspicion alcohol test should be administered within two (2) hours, but no later than eight (8) hours. A supervisor or management employee of the department shall transport or accompany the employee to the collection site.

Although reasonable suspicion testing does not require certainty, mere "hunches" are not sufficient to meet this standard. All supervisors will be trained in the recognition for drug and alcohol-related sign and symptoms,

and testing may only be requested by at least one trained supervisor with the concurrence of a second individual (either another trained supervisor or another management staff if a second trained supervisor is not available). The testing may be for drugs, alcohol, or both.

**Return to Duty Testing**

Any full time employee who has tested positive as a result of a random, reasonable suspicion or post-accident test, and is not terminated from employment with the City, will not be permitted to return to work until he has been evaluated by a substance abuse professional, completed any recommended rehabilitation, and has a negative test result on a return to duty test. The cost of the return to duty test shall be borne by the employee.

**Follow-Up Testing**

An employee who tests positive on a random, reasonable suspicion or post-accident drug and/or alcohol test, and is not terminated from employment by the City, may be required to participate in follow-up testing for up to 60 months from the employee’s return to work if recommended by a Substance Abuse Professional. If the Substance Abuse Professional (SAP) recommends follow-up testing, the employee shall be required to submit to a minimum of six (6) unannounced follow-up tests within the first twelve (12) months after returning to duty. Follow-up testing shall be conducted just before, during, or just after the employee performs a safety sensitive function and are in addition to random and reasonable suspicion testing. The SAP shall direct the schedule of unannounced follow-up testing. (The cost of follow-up testing shall be borne by the employee).

**III. SUBSTANCES TESTED & METHODS OF TESTING**

Systems presence testing is the procedure that is used to identify the presence of the following controlled substances or alcohol that may be present: (A negative initial screening test is considered a negative test).

<u>Drug Class</u>	<u>Screening Test Level</u>	<u>Confirmation Test Level</u>	<u>Confirmation Method</u>
Amphetamines	1,000 ng/ml	500 ng/ml	GC/MS
Cocaine	300 ng/ml	150 ng/ml	GC/MS
Marijuana (Cannabinoids)	50 ng/ml	15 ng/ml	GC/MS
Opiates	2,000 ng/ml	2,000 ng/ml	GC/MS
Phencyclidine	25 ng/ml	25 ng/ml	GC/MS

The Federal Department of Health and Human Services has established these detection thresholds consistent with available technology for each of the drugs listed above. These detection thresholds will be used uniformly in the interpretation of all drug test/drug screens, whether for a post-offer, pre-employment exam; reasonable suspicion test; post-accident test; random test; or follow up to assessment/treatment test. The levels for the five drugs tested for under the Federal Department of Transportation/Federal Highway Administration are established by DHHS: these drugs include amphetamines, cocaine, marijuana, opiates and phencyclidine.

The City reserves the right to add or delete substances on the list set forth in Section III herein. These changes may be made if, in the City’s discretion, they become warranted by the changing nature of abused substances or if mandated by changes in existing Federal, State or local regulations or legislation.

The drug and alcohol testing for the City shall be conducted by trained collection personnel, who meet quality assurance and chain-of-custody requirements for urine, hair or other collection procedures, breath alcohol

testing and strict confidentiality requirements as required by DHHS certified laboratories with which the collection site coordinates the testing process. Any individual subject to testing under this Policy shall be permitted to provide urine specimens in private, but subject to strict scrutiny by collection personnel to avoid any alteration or substitution of the specimen to be provided. Breath alcohol testing will likewise be done in an area that affords the individual privacy. In all cases, there will only be one individual tested at a time. Failure to appear for testing when scheduled shall be considered refusal to participate in testing, and will subject an employee to the range of disciplinary actions, including dismissal. An applicant who fails to appear for testing may have an offer of employment rescinded.

### **Alcohol Use and Testing**

With regard to alcohol use, all employees are prohibited from any use, on or off the job that could affect their performance. This includes, per DOT guidelines, the use of alcohol during the four (4) hours immediately prior to work, having prohibited concentrations of alcohol (0.02 or above) in their system, while operating City owned vehicles or equipment, and any use of alcohol during the eight (8) hours following an accident involving City owned vehicles or equipment.

Twinsburg Urgent Care, utilizing only certified equipment and personnel, will conduct breath and alcohol testing. Employee alcohol testing is to be conducted using an evidential breath-testing device (EBT) by a trained breath alcohol technician (BAT). DOT alcohol level guidelines apply to all employees. In the event of an accident where an employee has a “whole blood” alcohol drawn at a medical treatment facility, a result equal to or greater than 0.04 shall be considered to be a verified positive result.

If the result of an initial screening test shows an alcohol concentration of 0.02 or greater, a confirmation test shall be performed. An Evidentiary Breath Test (EBT) is used to confirm an initial positive test result. Confirmation testing takes place 15 minutes after the initial positive test. A confirming test result of 0.04 or greater is considered a positive alcohol test.

An employee attempting to adulterate a specimen or otherwise manipulate the testing process will result in termination of employment, as will a refusal to produce/provide a specimen.

### **Controlled Substance Testing**

Specimens shall be collected at a collection site which complies with procedures set forth in the Drug Free Workplace Act of 1998 and the Omnibus Transportation Act of 1991 and related regulations which otherwise conform to DOT protocols.

The collection site shall be responsible for transmitting specimen samples to a Substance Abuse Mental health Services Administration/DHHS certified laboratory for analysis. All laboratory results will be reported to a Medical Review Officer (MRO) designated by the company contracted to provide substance testing for the City of Twinsburg. The MRO is a medical doctor or doctor of osteopathic medicine with a specialized knowledge of substance abuse disorders. This professional will be able to determine valid reasons for the presence of a positively tested substance in the employees’ system. Negative results will be reported to the City. Before reporting a positive result to the City, the MRO will attempt to contact the employee to discuss the test results. If the MRO is unable to contact the employee directly, he shall contact the designated management official, who shall in turn contact the employee and direct him to contact the MRO. Upon being so directed, the employee shall contact the MRO immediately. An individual testing positive may make a request of the MRO to have the secondary vial tested by a different SAMSHA certified lab. Such costs shall be borne by the employee. The request for testing of a second specimen must be made within seventy-two (72) hours of being notified by the MRO of a positive result.

#### ***IV. EMPLOYEES' RIGHTS AND A POSITIVE TEST RESULT***

In the event that an employee tests positive for any drugs or alcohol as prohibited in this Policy, the employee will be given an opportunity to explain the findings to the MRO prior to the issuance of a report of a positive test result. Upon receipt of a confirmed positive finding, the MRO shall contact, or attempt to contact, the employee by telephone or in person. If contact is made by the MRO, the MRO shall inform the employee of the positive finding and give the employee an opportunity to rebut or explain the finding.

The MRO can request information on recent medical history and on medications taken within the last thirty days by the employee. In the event that the MRO finds support in the explanation offered by the employee, the employee may be asked to provide documentary evidence to support the employee's position (i.e., the name(s) of treating physician(s), pharmacies where prescriptions have been filed, etc.) Failure to provide such documentary evidence will result in the issuance of a positive report by the MRO with no attendant medical explanation. A medical disqualification of the employee will result

If the employee fails to contact the MRO within five days of having been instructed to do so, the MRO will issue a positive report to the City. Since no contact with the employee was possible, no medical explanation can be provided, and the employee shall forego the right to offer a defense to the positive test findings. A medical disqualification shall result, subject to re-test provisions set forth in the MRO's report.

#### **Driver and Employment Eligibility**

Any safety sensitive employee, who, pursuant to any of the required testing, is found to have an alcohol concentration of .02 or greater, but less than .04 shall not be permitted to perform safety sensitive functions for at least 24 hours. Such employee shall be placed on unpaid leave until he/she is fit to return to duty. Any employee, who is found through any required testing to have an alcohol concentration level of .04 or greater and is not terminated from employment, shall be prohibited from operating a City owned motor vehicle. An employee not permitted to drive may be placed, if available and at the discretion of the City in a lower, non-safety sensitive position at the lower rate of pay. If no such non-safety sensitive position is available, the employee shall be placed on unpaid leave. Any employee who is found through required testing to have engaged in prohibited use of a controlled substance shall be referred for professional assistance (i.e. SAP). If the employee is not terminated from employment, such employee shall be placed on unpaid leave of absence and not permitted to return to employment and operate a City vehicle until he has completed recommended rehabilitation and has a negative test result on a return to duty drug test. Nothing herein shall require the City to provide alternate employment during the period when the employee is not in compliance nor is there any obligation on the part of the City to retain an employee who violates the Act or this Policy.

#### **Discipline and Rehabilitation**

In addition to the above consequences for having a prohibited alcohol concentration or a positive test result, the City may discipline an employee, up to and including discharge, for violations of the Act, this policy, and/or misconduct or poor performance resulting from an alcohol or substance abuse problem.

Employees, who are found to have a confirmed positive drug or alcohol test, with no attendant medical explanation by the MRO, will be immediately suspended without pay or compensation. This suspension will remain in effect until the employee has a negative re-test in accordance with the MRO's instructions or has completed a medically recognized rehabilitation program. The employee must complete this rehabilitation program within a period of not more than 45 days from the date that the employee is notified by the MRO of the confirmed positive drug or alcohol test result. If documentary evidence of the employee's enrollment and successful completion of the rehabilitation program is not provided to the City, the employee's employment with the City shall be terminated for cause.

An employee's suspension for a positive drug or alcohol test result is intended to permit time for the positively tested substance to clear the employee's system and to allow the employee sufficient time to have a negative re-

test or to complete a recognized rehabilitation program. The City will permit only one suspension for a positive result without medical explanation per employee. Another positive result without medical explanation will result in termination for cause.

Failure to complete or participate in a prescribed rehabilitation program, if that opportunity is provided, shall result in the employee's discharge. In no event shall an employee be offered more than one opportunity at rehabilitation. A refusal to test or a positive test result on a return to duty or follow-up test shall be cause for termination. The cost for rehabilitation services shall be paid by the employee, except when the City provided health insurance plan provides such benefits. Nothing herein shall be construed as a guarantee that the City will offer an employee an opportunity for rehabilitation. The City's decision to offer employee rehabilitation and not discharge shall be made on the basis of the circumstances surrounding the employee's positive drug test. Considerations such as any other misconduct resulting from the employee's positive drug test, misconduct resulting in injury or property damage, the employee's work record, and other factors traditionally considered when determining whether to retain an employee.

### **Refusal to Test**

Employees who refuse to submit to required testing shall be subject to disciplinary action up to and including discharge. A refusal to test for purposes of this policy shall include: (1) a failure to provide a sufficient sample provided there does not exist a valid medical explanation as to why the employee was unable to do so, (2) any conduct which clearly obstructs the testing process such as unavailability or a delay in providing a sample, and (3) a failure to execute forms required as part of the testing process.

### **Supervisory and Employee Training**

The City will ensure that persons authorized to determine reasonable suspicion are trained, in compliance with the Act, to recognize the symptoms of impairment and intoxication. Further, employees of the City shall be provided a copy of this policy and other information prior to the start of alcohol and controlled substances testing under the Act.

### **Employee Status**

Employees shall be on paid status while submitting to any random, post-accident, reasonable suspicion or follow-up testing performed during times when the employee is scheduled to work. An employee, who is not permitted to return to work pending the outcome of a test result conducted pursuant to the provisions relating to reasonable suspicion testing and where the test result is ultimately negative, shall be paid for the time he was not permitted to work.

## ***V. CONFIDENTIALITY, RECORD KEEPING & REPORTING***

All test results will be reported to the MRO prior to the results being issued to the City. The MRO will receive from the DHHS testing laboratory a detailed report of the findings of the specimen. Each drug tested for and alcohol will be listed along with the results of the testing. The City will receive a summary report; this report will indicate that the employee passed or failed the drug/alcohol test.

All of the above procedures are intended to be consistent with the most current guidelines for Medical Review Officers that are published by the Federal Department of Health and Human Services.

To protect confidentiality of employees, all records of drug and alcohol testing will be stored with the employees' confidential medical records. These records shall be maintained under lock and key at all times. Access to these records shall be limited to City officials, on a need to know basis. The information contained in these files shall be utilized only to properly administer this Policy and to provide to auditing or certifying agencies for review as may be required under Federal or State laws. Those City officials having access to these records are charged with the responsibility of maintaining the confidentiality of these records. Any breach of confidentiality with regard to these records may be an offense resulting in termination of employment.

Employees tested under this Policy have the right to review and/or receive a copy of their respective test results. An employee may request copies of any records pertaining to his/her use of alcohol or controlled substances. Requests should be communicated to the City's Drug Free Workplace Program Administrator. The City will use its best efforts to promptly comply with this request.

## ***VI. ON-GOING EDUCATION REGARDING SUBSTANCE USE***

The City recognizes the pervasive nature of substance use in today's society and strives to provide its employees with timely and informative training. As a BWC designated Drug Free Workplace, all employees are required to participate in the City-sponsored educational programs. This Drug Free Workplace Training will be provided to all employees including supervisors, department heads and administrative staff. All training will be conducted by or supervised by appropriately qualified educators.

All employees will receive an annual two hour educational session aimed at providing current information about alcohol and drugs, signs and symptoms of use, the disease model associated with addiction and the effects of commonly used drugs in the workplace.

Supervisors will attend annual two hour educational sessions and, in addition, will receive an initial four hours of informational and skill building training to assist them in performing their responsibilities as they relate to the terms of this Policy. Supervisors will receive two hours of refresher training in subsequent years.

All educational awareness building and training sessions strive to help employees understand the nature of the substance abuse problem and to make employees aware of resources to help address the problem. This Policy is designed to challenge the workplace to become substance free and to create a safer workplace for everyone.

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