

RESOLUTION NO. 2018-089

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK RESCINDING RESOLUTION 2006-117 AND APPROVING A DRUG-FREE WORK PLACE POLICY

WHEREAS, on May 9, 2006 the City Council adopted Resolution No. 2006-117 approving a Drug-Free Workplace Policy for the City of Rohnert Park; and

WHEREAS, the City Manager recommends an update of this policy as attached as Exhibit A; and

WHEREAS, the policy will improve public and employee safety and reduce risks and liability to the City; and

WHEREAS, the City has engaged the employee bargaining unit representatives in the process of developing said policy; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park that it does hereby rescind Resolution 2006-117 and authorize and approve the updated Drug-Free Workplace Policy which is attached hereto as Exhibit "A" and incorporated by this reference.


BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute documents pertaining to same for and on behalf of the City of Rohnert Park.

DULY AND REGULARLY ADOPTED this 26th day of June, 2018.

CITY OF ROHNERT PARK


Pam Stafford, Mayor

ATTEST:


Caitlin Saldanha, Assistant City Clerk

Attachment: Exhibit A

BELFORTE: Aye MACKENZIE: Aye STAFFORD: Absent AHANOTU: Aye CALLINAN: Aye
AYES: (4) NOES: (0) ABSENT: (1) ABSTAIN: (0)



CITY OF ROHNERT PARK DRUG-FREE WORKPLACE POLICY

I. Purpose

The City of Rohnert Park has a vital interest in maintaining safe and efficient working conditions for its employees. Substance abuse is incompatible with health, safety, efficiency, and success at the City. While the City has no intention of intruding into the private lives of its employees, employees who are under the influence of drugs and/or alcohol on the job compromise the City's interests, endanger their own health and safety and the health and safety of others, and can cause a number of other work-related problems, including absenteeism and tardiness, substandard job performance, increased workloads for co-workers, behavior that disrupts other employees, delays in the completion of jobs, inferior quality in products or service, and disruption of customer relations.

The purpose of the Drug-Free Workplace Policy is to recognize the City's commitment to provide a safe and healthy workplace for its employees, to protect employees and the public, to ensure a drug free workplace, and to comply with all the relevant Federal and State laws, including, but not limited to the Drug Free Workplace Act of 1988 (41 U.S.C. § 8103) and the California Drug Free Workplace Act of 1990 (Gov. Code § 8355), the California Compassionate Use Act of 1996 (also known as Proposition 215); and the Control, Regulate and tax Adult Use of Marijuana Act of 2016 (also known as "The Adult Use of Marijuana Act") (Health & Safety Code §§ 11362.1 – 11362.45).

To further this purpose, the City has established the following alcohol and drug-free policy concerning the use of alcohol and drugs and the circumstances under which job applicants and/or employees may be subject to alcohol and drug testing. As a condition of continued employment with the City, each employee must abide by this Policy. All prospective employees for certain designated positions who have received a conditional job offer and all City employees shall receive a copy of this Policy, acknowledging, by signature, that they have read and understand its terms, and agree to comply with this Policy.

II. Definitions

For purposes of this Policy:

- (1) "Illegal drugs or other controlled substances" means *any* drug or substance that) is not legally obtainable under State and/or Federal law, including, but not limited to, marijuana/cannabis and any of its derivatives, which are classified as illegal drugs, prohibited as Schedule 1 drugs under the Federal Controlled Substances Act, Amphetamine Group, Cocaine, Opiates, Phencyclidine, and others.
- (2) "Legal drugs" refers to any legally obtainable drug under California and Federal law, including any prescription drug or over-the-counter drug, that has been legally obtained and that is not unlawfully sold or distributed.
- (3) "Abuse of any legal drugs" means the use of any legal drug (a) for any purpose other than the purpose for which it was prescribed or manufactured; or (b) in a quantity, frequency, or manner that is contrary to the instructions or recommendations of the prescribing physician or manufacturer.
- (4) "Possession" means that an employee knowingly has the substance on his or her person or otherwise under his or her control.
- (5) "City premises" refer to all City property, including, but not limited to the offices, facilities, parking lots and storage areas. This term also includes City-owned or leased vehicles and equipment wherever located.
- (6) "Under the influence" of drugs and/or alcohol means having drugs and/or alcohol in the employee's system as evidenced by applicable testing procedures, and/or exhibiting conduct demonstrating that the employee is impaired by drugs or alcohol.

III. Prohibited Conduct

A. Scope

The prohibitions of this section apply whenever the interests of the City may be adversely affected, including, but not limited to, any time the employee is:

- (1) On the City premises, in the workplace, or in uniform;
- (2) Conducting or performing City business, regardless of location;

- (3) Operating or responsible for the operation, custody, or care of City equipment or other property; or
- (4) Responsible for the safety of others.

B. Illegal Drugs

The following acts are prohibited and subject an employee to discipline:

- (1) The use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of any illegal drugs or other controlled substances; or
- (2) Being under the influence of any illegal drugs or other controlled substances.

C. Alcohol

The following acts are prohibited and subject an employee to discipline:

- (1) The unauthorized use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of alcohol; or
- (2) Being under the influence of alcohol.

D. Legal Drugs

The following acts are prohibited and subject an employee to discipline:

- (1) The abuse of any legal drug;
- (2) The purchase, sale, manufacture, distribution, transportation, dispensation, or possession of any legal prescription drug in a manner inconsistent with law; or
- (3) Working while *impaired* by the use of a legal drug whenever such impairment might:
 - (a) Endanger the safety of the employee or some other person;
 - (b) Pose a risk of significant damage to City property or equipment; or
 - (c) Substantially interfere with the employee's job performance or the efficient operation of the City's business or equipment.

IV. Disciplinary Action

Employees who fail to comply with the foregoing prohibitions will be subject to disciplinary action, up to and including termination, consistent with the City's disciplinary procedures. Employees may also be required to participate in a drug rehabilitation counseling program.

In certain instances, and solely at the City's discretion, the City may enter into an agreement with an employee who would otherwise be disciplined to permit the employee to keep his or her job upon fulfilling certain requirements pertaining to rehabilitation.

V. Use of Legal Drugs

The City recognizes that employees may, from time to time, be prescribed legal drugs that, when taken as prescribed or according to the manufacturer's instructions, may result in their impairment. Any employee taking a legal drug is responsible for consulting with the prescribing physician and/or pharmacist to ascertain whether the legal drug may interfere with the safe performance of the employee's job. If the use of the legal drug might impair the employee's ability to safely perform the job duties or affect the safety or well-being of others, it is the employee's responsibility to request reasonable accommodation(s) from his/her supervisor or the Human Resources Department to avoid any unsafe practices. Accommodations may include use of available leave time, or other reasonable and appropriate options.

Employees may not report to work while impaired by the use of legal drugs if the impairment might endanger the employee or someone else, pose a risk of significant damage to City property, or substantially interfere with the employee's job performance.

Nothing in this Policy is intended to diminish the City's commitment to employ and reasonably accommodate qualified individuals with disabilities. The City will engage in an interactive process as required by law in an attempt to reasonably accommodate qualified employees with disabilities who must take legal drugs because of their disability.

VI. Unregulated or Authorized Conduct

Customary Use of Over-the-Counter Drugs. Nothing in this Policy is intended to prohibit the customary and ordinary purchase, sale, use, possession, or dispensation of over-the-counter drugs, so long as that activity does not violate any law or result in an employee being impaired by the use of such drugs in violation of this Policy.

VII. Drug Convictions and the Drug Free Workplace Act of 1988

Pursuant to the Drug Free Workplace Act of 1988 and as a condition of employment, any City employee convicted of a criminal drug statute or criminal offense involving the use and/or consumption of drugs or alcohol in the workplace, must notify the Human Resources Department no later than five (5) calendar days following the conviction. For purposes of this Policy, a conviction includes a finding of guilt, a plea of no contest, and/or an imposition of sentence by any judicial body charged with responsibility to determine violations of federal or state criminal drug and alcohol statutes. The City shall report that conviction to any federal agency requiring such notification pursuant to the Drug Free Workplace Act of 1988 in writing within ten (10) calendar days after receiving notice from the convicted employee or otherwise receiving notice of such conviction. The City, within thirty (30) days after receiving such notice, may initiate appropriate personnel action, including, but not limited to requiring the convicted employee's satisfactory participation in an approved drug abuse assistance or rehabilitation program.

VIII. Confidentiality

Disclosures made by employees to the Human Resources Department concerning their use of legal drugs will be treated confidentially and will not be revealed to managers or supervisors unless there is an important work-related reason to do so in order to determine whether it is advisable for the employee to continue working. Disclosures made by employees to the Human Resources Department concerning their participation in any drug or alcohol rehabilitation program will be treated confidentially.

IX. Counseling/Employee Assistance

Employees who suspect they may have alcohol or drug problems, even in the early stages, are encouraged to voluntarily seek diagnosis and to follow through with the treatment as prescribed by qualified professionals. Employees who wish to voluntarily enter and participate in an approved alcohol or drug rehabilitation program are encouraged to contact the Human Resources Department who will determine whether the City can reasonably accommodate the employee, such as providing unpaid leave for the time necessary to complete participation in the program. Employees should be aware that participation in a rehabilitation program will not necessarily shield them from disciplinary action for a violation of this Policy, particularly if discipline is imposed for a violation occurring before the employee seeks assistance.

The City also maintains an Employee Assistance Program (EAP), administered by the Redwood Empire Municipal Insurance Fund (REMIF), which provides help to employees who seek assistance for drug or alcohol abuse, as well as for other personal or emotional problems. Employees who suspect that they may have alcohol or drug problems, even in the early stages, are encouraged to voluntarily seek diagnosis and to

follow through with the treatment as prescribed by qualified professionals. Employees should be aware that participation in the Employee Assistance Program or otherwise seeking treatment will not necessarily shield them from disciplinary action for a violation of this Policy, particularly if discipline is imposed for a violation occurring before the employee seeks assistance.

X. Drug Testing

The City will conduct drug testing under the following circumstances:

A. Pre-Employment. At this time, pre-employment drug testing (bodily fluid test) will be conducted for full time, part time and volunteers in safety-sensitive positions and/or positions responsible for the safety of children. Attachment A is a list of positions subject to pre-employment/appointment drug testing. The City Manager has the authority to modify Attachment A at any time without further approval from the City Council. All offers of employment/appointment are conditioned on a negative drug test result. Positive test results will not bar reapplication at a later time.

B. Reasonable Suspicion. A Manager and/or supervisor may request that an employee submit to a drug and/or alcohol test pursuant to the procedures set forth below when such manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol on the job.

"Reasonable Suspicion" is a suspicion that is based on specific personal observations such as an employee's manner, disposition, muscular movement, staggering gait, disorientation, loss of balance, appearance, behavior, speech, body or breath odor; unexplained drowsiness, red and watery eyes, if not explained by environmental causes, information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable; or a suspicion that is based on other surrounding circumstances, including a pattern of unusual conduct or erratic behavior.

A manager or supervisor requesting that an employee be required to submit to a reasonable suspicion test shall first give the employee an opportunity to respond to the manager or supervisor's suspicions. A represented employee may consult with a union representative before responding to the manager or supervisor's suspicions, but the right to consult a union representative shall not unreasonably delay the response and testing time. The employee has the option to request a neutral second opinion. If the employee makes this request, then the supervisor or manager would contact a sworn member from the Dept. of Public

Safety for a second opinion. If the manager or supervisor continues to have a reasonable suspicion that the employee is intoxicated or under the influence of illegal drugs, the manager or supervisor shall document in writing the facts constituting reasonable suspicion using the attached form or similar document. The manager or supervisor shall then contact the City Manager or his/her designee, who will then determine whether to order the employee to submit to a reasonable suspicion test. The City Manager or his/her designee will arrange safe transportation for the employee to the designated medical clinic for testing.

Employees who refuse to cooperate with the drug test administration shall be transported safely home. The employee's manager or supervisor shall notify the City Manager or Human Resources Department. An investigation will be conducted and the employee may be subject to discipline, up to and including termination, consistent with the City's disciplinary procedures.

- C. **As Required by Federal and State Law.** Some employees may be required to submit to drug or alcohol testing if required pursuant to federal or state law, including but not limited to employees required to operate a commercial motor vehicle as established in the federal Omnibus Transportation Employee Testing Act of 1991 (OTETA). The Human Resources Department will provide all affected employees with the appropriate drug testing policies.
- D. **Procedures for Pre-Employment Drug Testing.** For positions in which pre-employment drug testing is required, the City will arrange the pre-employment medical exam appointment and drug testing and will pay the cost of the medical exam and drug test. The job candidate will have the opportunity to alert the clinic or laboratory personnel to any prescription or non-prescription drugs that s/he has taken that may affect the outcome of the test. All drug testing will be performed by urinalysis. The clinic will inform the City as to whether the candidate passed or failed the drug test.
- E. **Acknowledgment and Consent.** All job candidates and employees subject to testing under this policy will be asked to sign a form acknowledging the procedures governing testing, and consenting to (1) the collection of a urine sample for the purpose of determining the presence of drugs, and (2) the release to the City of medical information regarding the test results. Refusal to sign the agreement and consent form, or to submit to the drug test, will result in a presumption that the employee would test positive for alcohol or illegal drugs. Based on this

presumption, the City will reject an application for employment, withdraw a conditional offer of employment, or impose appropriate discipline for current employees.

F. Confidentiality. All drug testing-records will be treated as confidential.

XII. Additional, Related Information

Additional, related information may be found in the Memorandums of Agreement (MOAs) of the individual employee bargaining units and the City's Personnel Rules & Regulations.

ATTACHMENT "A"



**CITY OF ROHNERT PARK
DRUG-FREE WORKPLACE POLICY**

List of positions subject to pre-employment/appointment drug testing:

- All full-time, part-time or volunteer assignments in safety-sensitive positions and/or responsible for the safety of children, including:

Recreation:

Lifeguard
Senior Lifeguard
Swim Instructor
Special Instructor
Community Services Coordinator
Community Services Leader
Senior Community Services Leader
Community Services Program Coordinator I/II
Community Services Supervisor
Community Services Manager
Pool Manager
Sunshine Bus Driver

Theatre:

Theatre Technician

Public Works:

Arborist
Electrician
Maintenance Worker I/II
Supervising Maintenance Worker
Landscape Maintenance Worker
Fleet Mechanic
Fleet Services Supervisor

Public Safety:

Public Safety Trainee
Public Safety Officer I-IV
Public Safety Sergeant

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Public Safety Commander
Public Safety Director
Public Safety Dispatcher
Public Safety Communications Supervisor
Fire Marshall
Property Technician
Community Services Officer

The City Manager has the authority to modify the above list at any time. Not all of the above positions require a pre-employment or appointment physical exam; however, they all require passing a drug test prior to the start date with the City.

Darrin Jenkins, City Manager

Updated List June 26, 2018

**DOCUMENTATION OF REASONABLE SUSPICION
FOR DRUG/ALCOHOL TESTING**

Employee involved _____ Date of incident _____

Time of incident _____ Location of incident _____

Employee's Job Position/Assignment _____

Employee's initials _____ Time _____

Did employee request union representation? _____

Union representative present for discussion (if requested) _____

WHAT WAS OBSERVED _____

WHAT IS EMPLOYEE'S EXPLANATION _____

If employee requested second opinion, what sworn member of RPPSD confirmed reasonable suspicion? _____ Badge Number _____ Time _____

Action taken: _____

Signature _____

Name of City Representative _____

Title: _____

City Manager or designee's signature (required to authorize testing):

_____ Date and Time: _____