

## ALCOHOL AND DRUG POLICY

### 1.0 Purpose

The City of Lake Forest recognizes that drug and alcohol abuse is pervasive in our society. The City further recognizes that the workplace is not exempt from the use or abuse of such substances.

The misuse of alcohol and the illegal or misuse of drugs by The City of Lake Forest's employees is contrary to an alcohol and drug free workforce and workplace. The use of these substances increases the potential for accidents, absenteeism, substandard performance, turnover, misconduct, poor employee morale, damage to property, injury to the public and/or other employees, and degradation of trust in the City to effectively service its citizens. Therefore, the following Alcohol and Drug Policy is adopted.

This policy is intended to target and rectify current misuse and abuse of alcohol and drugs when they effect the workplace. To assist employees to understand and to avoid the perils of drug and alcohol abuse, the City is involved in an ongoing educational effort to prevent and eliminate drug and alcohol abuse that may affect the workplace. Through this policy and related efforts, the City will attempt to inform employees about the dangers of alcohol and drug abuse, the City's Alcohol and Drug Policy, the availability of treatment and counseling for employees who voluntarily seek such assistance, and the sanctions that the City will impose for violations of this policy.

The City recognizes that substance abuse is a medical problem that can be successfully treated. Early detection and treatment of alcohol or drug abuse is important for successful rehabilitation and for reduced work, personal, and social disruption. The City therefore encourages employees who believe that they have a drug or alcohol problem to seek the assistance of its Employee Assistance Program as set forth in Section 4.0 below.

### 2.0 Scope

#### 2.1 Prohibited Activities

All employees of The City of Lake Forest shall be governed by the principles of an alcohol and drug free workforce and workplace. ***The workplace includes all buildings, offices, lockers, facilities, grounds, parking lots, places and vehicles owned, leased or managed by the City and all areas where City-business is conducted, whether on or off-City premises.*** The following actions are strictly prohibited:

- a. Being impaired by or under the influence of alcohol, illegal drugs or controlled substances, or having any of the same present in their bodily systems, while on duty or on City property;
- b. The manufacture, distribution, dispensation, sale, possession or use of alcohol, illegal drugs or controlled substances while on duty ("on duty" includes working hours, on-call time, and rest breaks and meal periods) or on City property (which includes any City-owned or leased vehicle and other equipment);
- c. Tampering with, adulterating, or substituting a test specimen or causing another person to tamper with, adulterate, or substitute a test specimen; and

- d. Refusing to submit to testing according to the procedures outlined in this policy or failing to cooperate in the testing process, including any refusal to sign any required form consenting to testing and to the release of test results to the City.

City ordinances provide for certain limited occasions when alcohol may be served on City premises. An employee may consume alcohol on City premises on these limited occasions, provided the employee does not become or appear to be intoxicated, if the employee is not on duty, on-call for duty, engaged in City business, or in City owned or leased vehicles or other equipment.

All City employees are subject to this policy and should be aware that violations of this policy will result in disciplinary action up to and including termination, even for the first offense. For any employee covered by a collective bargaining agreement between a union and the City, any discharge for violation of this policy shall be considered a termination for just cause without the need for any prior warning.

## 2.2 Use of Prescribed or Over-the-Counter Medication

Use of medication administered, prescribed by, or under the supervision of a physician and according to the prescribing physician's lawful directions or non-prescription medication in conformity with the manufacturer's specified dosage is not prohibited by this policy. ***Employees are prohibited from being under the influence of prescribed medical cannabis during work hours.*** Further, an employee taking medication must notify his or her supervisor or the Director of Human Resources of any known side effects that might affect the employee's job performance. In addition, if the employee drives a vehicle or operates equipment in connection with his or her job, the employee's physician must have advised the employee that the medication will not affect the employee's ability to safely operate a motor vehicle or equipment, or otherwise function in his or her position. If required by the City, the employee shall produce written evidence that any prescription medication has been lawfully prescribed by a physician, as well as information from the physician concerning any potential side effects of the medication.

To avoid being disciplined for having a positive test result, an employee must notify the City of his or her use of prescription or non-prescription medication before any laboratory test is performed on the employee's specimen and the positive test result must be consistent with the ingredients of such medication. The wrongful use or sale of prescription or non-prescription medication is a violation of this policy.

## 3.0 Definitions

### 3.1 Alcohol:

Any distilled spirits, wine, malt beverages or other intoxicating liquors.

### 3.2 Criminal Drug Statute:

A criminal statute involving the manufacture, distribution, dispensation, use, or possession of any drug.

### 3.3 Drug:

Any ***narcotics, stimulants, depressants, hallucinogens***, controlled ***substance or any other drug which is not legally obtainable***, including without limitation, cocaine, heroin, marijuana (cannabis), hallucinogens, amphetamines, phencyclidine (PCP), opiates, methadone, ecstasy, or barbiturates. Drug also means any controlled substance as defined by the FDA and any drug or controlled substance, the possession, sale or consumption of which is prohibited by federal and/or Illinois law. This term includes prescription or non-prescription medications which ***have not been legally obtained, are not being used for prescribed purposes, are not being taken according to prescribed dosages or are otherwise*** wrongfully used or sold.

3.4 Drug/Alcohol Test:

Any chemical, biological or physical instrumental analysis administered for the purpose of determining the presence or absence of alcohol or a drug or its metabolites.

3.5 Medical Review Officer:

A licensed physician who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for drug test results.

3.6 Positive Test Result:

A test performed:

- a. On a specimen provided by the employee that measured an ethyl alcohol concentration of 0.02 or more;  
or
- b. On a specimen provided by the employee that detected an amount of a drug at a level set in accordance with the test manufacturer's standards.

3.7 Reasonable Suspicion:

An articulated belief based on specific, objective and articulable facts and observations, as well as reasonable inferences drawn from those facts, that the employee is violating this policy. Circumstances which may constitute a basis for determining reasonable suspicion may include, but are not limited to:

- a. A pattern of abnormal or erratic behavior;
- b. A noticeable change in work performance;
- c. Direct observation of drug or alcohol use; or
- d. Physical symptoms of drug or alcohol use (glassy or bloodshot eyes, slurred speech, poor coordination, or the odor of alcohol on or about the person or breath of the employee).

**4.0 Employee Assistance Program**

The Employee Assistance Program (EAP) of The City of Lake Forest is available to employees who desire to seek help for an alcohol or drug problem. Contact with the EAP can be made directly or through a referral.

An employee may desire to come forward on a self-initiated basis to seek help for an alcohol or drug problem and to voluntarily resolve that problem. Employees are encouraged to do so before they are found in violation of this policy. Voluntary requests for help will be kept confidential in accordance with federal and state law.

The employee will not be subject to disciplinary action for voluntarily coming forward for help. However, an employee will not escape discipline by seeking such assistance after being requested to take an alcohol and/or drug test or violating City policies. If an employee continues working while seeking assistance from the EAP, the employee must continue to meet all established standards of conduct and job performance set forth by the City. In addition, once an employee has violated City policies, compliance with a prescribed treatment will not guarantee an employee a right of reemployment.

*The City may, in its sole discretion based on circumstances, permit an employee one opportunity to undergo treatment offered by a clinic or trained professional mutually acceptable to the City and employee in lieu of discipline or termination under this policy.* The employee must pay all of the expenses associat-

ed with his or her evaluation, counseling, and treatment that are not covered by the employee's insurance plan.

## **5.0 General Provisions for Alcohol and Drug Testing**

### **5.1 Permitted Tests**

Drug and/or alcohol testing may be conducted under any one or more of the following conditions:

#### **a. Reasonable Suspicion Testing**

If a supervisor has a reasonable suspicion to believe that an employee is violating any of the provisions set forth in this policy, he or she shall inform at least one of the following individuals: a person of equal or higher level of authority within the same department, the City Manager, or the Director of Human Resources. The observing employee and the employee to whom the observing employee reported the suspicion shall review the bases for the suspicion and determine whether the employee will be required to submit to drug or alcohol testing. If these two individuals determine that testing is required, the supervisory person will provide a written order (sample attached) to the employee requiring him or her to submit to drug or alcohol testing. The order will be signed by the two individuals who reviewed the facts of the suspicion and will state the specific facts and inferences leading to the reasonable suspicion to order the test. The employee shall complete the test requested by the supervisor within one (1) hour of issuance of the order. The supervisor shall arrange for transportation to the testing facility and to the employee's home once the test has been completed or shall ensure that the employee has arranged for his or her own transportation. Any employee who is required to submit to a reasonable suspicion test will not be allowed to return to work until the test result is received by the City. The employee will be paid for time lost if the test result is negative.

#### **b. Return-to-Duty Testing**

Any employee reinstated to active duty following a positive drug or alcohol test, a refusal to test, or another violation of this policy may be required to submit to a return-to-duty drug or alcohol test. The employee will not be allowed to return to work until the test result is received by the City.

If the employee returns to work following a positive drug or alcohol test, a refusal to test, or another violation of this policy, the employee may also be required to submit to follow-up drug or alcohol testing for a specified period of time designated by the City. This follow-up testing shall not extend for a period longer than twenty-four (24) months.

#### **c. Pre-Employment and Promotional Testing**

Any applicant or employee may be required to submit to drug testing as a condition of the promotional process, initial employment, being rehired, or during a change in job assignment.

Pre-employment testing will be performed only on applicants who have received a conditional offer of employment from the City. However, failure to pass a drug test will result in termination of the hiring process. Applicants may reapply for employment with the City six (6) months after having a positive drug test.

#### **d. Post-Accident Testing**

Any employee may be required to submit to drug or alcohol testing whenever the employee is involved in or responsible for a work-related accident that results in personal injury to the employee or to any

other person, requires the employee or any other person to seek medical attention, or causes damage to property.

An employee who is required to submit to a post-accident test will not be allowed to return to work until the test result is received by the City. The employee will be paid for time lost if the test result is negative.

e. Random Testing

All sworn personnel in the City's Fire Department and all sworn and non-sworn personnel in safety-sensitive positions in the City's Police Department will be included in the group from which the City's Director of Human Resources will randomly select employees to submit to alcohol and drug testing. Employees will be selected using a computer-based random number generator to ensure that each individual will have an equal chance of being tested each time selections are made. This same process will be repeated on a sporadic, unannounced basis throughout the year.

Employees shall not be informed of the need to be tested until just prior to the actual test being performed. Employees who are notified that they have been selected for random alcohol or drug testing must proceed to the test site immediately.

5.2 Testing Procedures

In conducting the tests authorized by this policy, the City shall:

- a. Use only a clinical laboratory or hospital facility that is licensed pursuant to the Illinois Clinical Laboratory Act and that has been or is capable of being accredited by the National Institute of Drug Abuse (NIDA);
- b. Ensure to the best of the City's knowledge and belief that the laboratory or facility selected conforms to all NIDA standards;
- c. Ensure that the facility has established a "chain of custody" procedure for both the sample collection and testing that will ensure the integrity of each sample and test result;
- d. Provide each employee tested with a copy of all information and reports received in connection with the testing, including the test results;
- e. Ensure that no employee is subjected to any adverse employment action except emergency temporary reassignment or relief from duty during the pendency of any testing procedure. Any such emergency reassignment or relief from duty shall be immediately discontinued in the event of a negative test result reported to the City; and
- f. Use specimens only to test for alcohol and drugs and for no other purpose.

**6.0 Test Results**

6.1 Drug Test Results

The MRO will review and interpret all confirmed positive test results to determine if there could be an alternative medical reason for the positive test result and to ensure that the chain of custody is complete and sufficient. The MRO will interview the employee (or make a good faith effort to do so) and examine his or her medical history, including his or her current prescriptions. The MRO will give the person tested an opportunity to discuss the results and provide documentation of legally prescribed medication.

If the employee provides adequate documentation and the MRO determines that there is a legitimate medical explanation for the prohibited drug found in the employee's system, the drug test will be reported to the City as negative. However, if there is no legitimate, alternative medical reason for the positive test, the MRO will send the positive test result to the City's Director of Human Resources, who will maintain it in a secure location with controlled access.

The MRO will advise the employee that he or she may have the additional sample tested by a NI-DA-certified clinical laboratory or hospital facility of the employee's own choosing (at the employee's own expense), provided the employee notifies the MRO in writing within seventy-two (72) hours of receiving the results of the first test. If the independent retest is negative, the employee will be allowed to return to work, will be compensated for the time lost, and will be reimbursed for the cost of the independent test.

## 6.2 Alcohol Test Results

The test results will be provided by the testing facility to the City's Director of Human Resources, who will maintain them in a secure location with controlled access.

## 6.3 Positive Test Results

Where the employee tests positive on both the initial and confirmatory tests for drugs or alcohol, the employee shall be subject to disciplinary action which can include discharge, even for the first offense. The employee may also be required to undergo a drug and/or alcohol evaluation by a properly certified and credentialed substance abuse professional. ***If the City, in its sole discretion, determines under the circumstances to permit an employee to undergo such treatment in lieu of discipline or termination of this policy, the employee must comply with all recommendations of the substance abuse professional. The employee must*** consent in writing to the disclosure by the program of its recommendations, any dangers it perceives in connection with the employee's continued performance of his or her job, whether the employee is complying with and/or has successfully completed the program, and the ongoing requirements of the program. Any refusal or failure to comply with the substance abuse professional's recommendations will subject the employee to immediate discharge. However, complying with any prescribed counseling or treatment does not create any right to return to duty, it is merely a condition to such return. The costs for any evaluation and/or counseling and treatment shall be paid by the employee unless covered by the employee's insurance plan. ***Participation in a treatment program will not, in itself, protect the employee from disciplinary actions should job performance or conduct remain unsatisfactory.***

## 6.4 Confidentiality and Privacy

The City will attempt to ensure that all aspects of the testing process are as private and confidential as reasonably practical. No test results or information related to the results will be released except on a need-to-know basis or as required by law. Except as required by law, the results will not be released to any unauthorized party, including coworkers, an employee's family, and uninvolved supervisors, without written consent of the employee tested. The City will, however, inform the police of trafficking in illegal drugs by employees, and will turn over any illegal drugs confiscated on the City's property to the police.

## 7.0 Discipline

- 7.1 ***An employee who reports to work or is found during working hours to be or to have been under the influence of alcohol or drugs or who manufactures, possesses, uses, sells or dispenses alcohol or drugs while on City property or while acting on behalf of the City, is convicted of a drug related crime, causes financial or physical damage to the City property, its employees or the public as the result of alcohol or drug abuse, or fails to report the use of legal drugs in accordance with this Policy, will be disciplined up to and including termination. Where an employee is subject to discipline due to the City's determination***

*that the employee is impaired and the employee contends they are a “qualifying patient,” the City will offer the employee the opportunity to respond to the determination regarding impairment to the extent required by law.*

**7.2** *In addition to the examples of misconduct that may subject an employee to disciplinary action contained in City policies, the City will discipline an employee up to and including dismissal for the following: (1) if the employee refuses to submit to diagnosis, testing or screening upon request of the City; (2) if the employee tampers in any way with the specimen given to the medical facility for purposes of alcohol or drug screening or testing; (3) if the medical facility recommends treatment and the employee refuses to undergo such treatment; (4) if, while undergoing treatment, the employee fails or refuses to follow the course of treatment; (5) if the employee, during the course of or following treatment, is again under the influence of alcohol or drugs in violation of this Policy; or, (6) if the employee fails to notify the City of a conviction for violating any federal or state Criminal Drug Statute in accordance with the “ Notice of Conviction” section of this policy.*

### **8.0 Drug-Related Felony Conviction**

The conviction of an employee for any violation of a criminal drug statute occurring in the workplace shall constitute cause for disciplinary action, even for the first offense. Any such conviction must be reported to the employee’s supervisor within five (5) calendar days of the conviction. ***The City may take disciplinary action for an employee’s violation of criminal drug statutes at any time with consideration generally made to*** the nature of the charges, the sentence, the employee’s job assignment, the employee’s record with the City, any adverse impact of the employee’s conviction on the public’s trust in the ability of the City to carry out its responsibility, and any other relevant factors.

### **9.0 Condition of Employment**

Compliance with the City’s Alcohol and Drug Policy is a condition of employment. Failure or refusal of an employee to cooperate fully, sign a required document, submit to any test, follow any prescribed course of treatment, or otherwise comply with this policy will be grounds for discipline, including termination. The City also reserves the unilateral right to modify, alter, amend, change, discontinue, suspend, cancel, or terminate this policy at any time.

### **9.0 Distribution**

All City employees; published on the Employee Information Site, [www.citylf.org](http://www.citylf.org).

**Nothing in this policy alters an at-will employee’s status as an at-will employee. The City hopes that each employment relationship will be a happy and enduring one. Nevertheless, employees remain free to resign their employment at any time, for any reason, or for no reason without notice. Similarly, the City retains the right to terminate any non-bargaining unit employee at any time without notice, warning or cause. No one can alter your status as an at-will employee, except the City Manager in writing. The provisions in this policy may be modified at any time.**



Robert R. Kiely, Jr.  
City Manager