



4.01 DRUG & ALCOHOL USE PROHIBITED

General

The City of Portland views illegal drug use and excessive use of legal drugs and alcohol as a threat to the public welfare and the health, safety and productivity of employees of the City.

The City of Portland has a strong commitment to its employees to provide a safe work environment and promotes high standards of employee fitness. Consistent with the intent of this commitment, the City established this rule regarding drug and alcohol abuse. The City's goal is to establish and maintain a work environment that is free from the effects of drug and alcohol abuse.

While the City of Portland has no intention of interfering with the private lives of employees, the City expects its employees to report to work in a condition to perform their duties in a safe, effective and efficient manner.

All persons covered by this rule should be aware that violations will result in discipline, up to and including termination, or in removal from the application process.

Covered Employees

This rule covers applicants for certain classified positions and all City of Portland employees in the classified or exempt from classified service, excluding sworn members of the Bureau of Fire and Rescue, the Bureau of Emergency Communications and the Police Bureau who are covered by separate bureau drug and alcohol rules.

With the exception of the sections regarding Employee Assistance and Discipline, this rule also covers all temporary and seasonal employees outside the classified service.

Definitions

Managers and Supervisors refers to all employees with supervisory responsibility.

City is the City of Portland and its Bureaus.

Bureau is the particular City bureau or office where the employee involved works.

Prescription medication is a medication for which an employee has a valid prescription from a qualified physician.

Drugs as used in this rule includes marijuana and all illegal drugs, but does not include CBD products which are federally legal under the 2018 Farm Bill.

- **Reasonable Suspicion** as used in this rule means a determination by a supervisor or other manager that an employee may be under the influence of
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drugs and/or alcohol. This determination must be based on specific contemporaneous, articulable, objective facts and reasonable inferences drawn from those facts, and must be made by a trained supervisor and/or manager. Examples would include, but are not limited to, one or more of the following: Direct observation of on-duty use or possession of drugs or alcohol

- Direct observation of on-duty odor of alcohol
 - Direct observation of behaviors which appear to be indicative of the use of drugs or alcohol and are not attributable to other factors
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Rules

No employee shall:

1. Unlawfully manufacture, distribute, dispense, possess or use drugs in the workplace, including marijuana;
2. Report for duty under the influence of alcohol or drugs;
3. Report for duty with the odor of alcohol on their person;
4. Absent themselves from duty or be unfit to fully perform duties for reasons attributable to, or produced by, indulgence in alcohol, drugs, or the excessive or other improper use of prescription or other medications.
5. Bring or cause to be brought onto City property any alcohol or drugs;
6. Use any prescription or nonprescription medications, which may interfere with the safe and effective performance of duties or operation of City equipment or vehicles, without notifying their supervisor prior to beginning work or operating the equipment or vehicle.
7. Refuse to respond to questions within the scope of this rule.
8. Refuse to submit to a Reasonable Suspicion drug and alcohol test when required by the City. Refusal to submit includes:
 - a. Refusing an order to take a required test;
 - b. Inability to provide a urine specimen or breath sample without a valid medical reason, confirmed by a physician;
 - c. Tampering, adulterating, or substituting a specimen or any other attempt to defeat or obstruct a drug or alcohol test;
 - d. Delaying arrival at the designated collection site;
 - e. Leaving the collection site before the drug or alcohol testing process is complete;
 - f. Failing to permit an observed or monitored collection when required;
 - g. Failing to take a second test when required;
 - h. Failing to undergo a medical evaluation when required; or
 - i. Failing to cooperate with any part of the testing process.

While working (in a City facility or at an off-site location), operating a City vehicle (on or off duty) or wearing a City uniform, no employee shall:

1. Have the odor of alcohol on their person;
2. Use alcohol or drugs;
3. Have their ability to work impaired as a result of the use of alcohol or drugs;
4. Possess alcohol or drugs;
5. Provide, manufacture, deliver, transfer, offer, or sell alcohol or drugs to any other employee or to any person while on duty;

If there is a question regarding an employee's ability to work safely and effectively while using prescription or nonprescription medications, clearance from a qualified physician will be required. The City will continue to retain the right to make the final determination concerning an employee's fitness to perform work.

Exception for Elected Official Sponsored Event

Events that are sponsored or approved by an elected official are exempt from the section prohibiting alcohol to be brought on to City property.

Searches in Areas and Property in which the City Maintains Joint Control or Full Control

The City reserves the right to search, without employee consent, all areas and property over which the City maintains joint or full control. All City vehicles, equipment, offices, desks and lockers are subject to search by management. Searches, which are undertaken specifically to investigate violations of this rule, shall be conducted in the presence of the employee if practical. If the employee is not available, or if the employee so requests, a reasonable time will be allowed for a representative to be present before a search is conducted. The limitation on the City's right to examine City property contained in this paragraph does not apply to property used jointly by more than one (1) employee.

Managers and supervisors shall not physically search employees.

Searches of Other Areas and Property

The manager or supervisor shall first ask the employee to consent to a search of the area where the manager or supervisor believes there is evidence of a violation of this rule.

For DCTU, PTE Local 17 , Recreation and BOEC employees, the manager or supervisor shall contact a union representative and they shall jointly ask the employee to consent to a search of the area where the manager or supervisor believes there is evidence of a violation of this rule. The union representative will encourage the employee to comply with the request.

Responsibility of Employees

An employee must:

1. Comply with all aspects of this administrative rule.
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2. Notify their supervisor before beginning work, when taking any prescription or non-prescription medications which may interfere with the safe and effective performance of duties or operation of City equipment.
 3. Consult with the supervisor if there is any question concerning whether the use of a particular prescription or non-prescription medication is covered by this rule. Note: This rule is not intended to prohibit the safe and legal use of prescription and nonprescription medications.
 4. Provide, as soon as possible and no later than within 48 hours of a request, proof of a valid prescription for any medication identified by the employee as the cause of their behavior. The prescription must be in the employee's name.
 5. Notify the bureau of any felony drug arrest or conviction by the next regularly scheduled workday.
 6. Notify the bureau of any drug conviction for acts occurring on City premises or on duty by the next regularly scheduled workday.
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Responsibility of Bureaus

1. Notify and provide a copy of this rule to all current employees.
 2. Provide training on the implementation of this rule's procedures to all managers and supervisors within the bureau who supervise covered employees.
 3. Provide ongoing administration and enforcement of this rule.
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Responsibility of Management

Managers and supervisors are responsible for consistent enforcement of this rule. Any supervisor who knowingly permits a violation of this rule by employees under their direct supervision shall be subject to disciplinary action.

Managers and supervisors must:

1. Investigate any question, which arises about an employee's fitness to work due to use of prescription or nonprescription medications.
 2. Investigate any employee who appears to be in violation of this rule.
 3. Refer for Reasonable Suspicion testing any employee who appears to be under the influence of drugs or alcohol while on duty.
 4. Advise an employee of their right to have either an available union representative (if any) or another employee present during an investigatory interview
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Employee Assistance Program

The City has established an [Employee Assistance Program](#) (EAP) to assist employees with a full range of personal issues including alcohol and drug abuse problems. The EAP provider can evaluate an employee's case and determine the appropriate level and type of treatment, if any.

1. Employees are encouraged to voluntarily seek professional assistance for alcohol and drug abuse with or without contacting management.

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2. Employees are encouraged to utilize chemical dependency programs offered under benefit plans.
 3. A manager or supervisor who has reason to believe that an employee may have a drug or alcohol problem which is affecting the employee's work performance, may suggest that the employee go to the City's EAP provider for an assessment. Participation in the assessment is voluntary.
 4. Contact between the employee and the EAP provider is confidential unless otherwise authorized by the employee.
 5. A referral to the City's EAP program is separate from any disciplinary action that may result from the employee's violation of this rule.
 6. A referral to the City's EAP program does not increase the employee's EAP benefits.

See the [Administrative Rule on the EAP](#) for more information.

Employee Testing For Use of Alcohol or Drugs

Employees may be tested pursuant to the terms of an agreement between an employee, the employee's union representative (if any), and their bureau, which is designed to address the employee's substance abuse and work behavior problems.

Employees may be tested for drugs and alcohol when a trained supervisor has reasonable suspicion that the employee may be under the influence of drugs or alcohol while on duty.

Applicant Testing for Use of Alcohol or Drugs

Applicants for positions covered by this rule may be tested for drug or alcohol usage as part of the pre-employment physical examination process.

1. Testing of applicants will occur at the request of a Bureau Manager and concurrence of the Director of Human Resources and City Attorney.
 2. Factors to consider when determining which examinations will have pre-employment testing are:
 - (a) Working with or operation of vehicles or other machinery;
 - (b) Public safety related work;
 - (c) Work with children;
 - (d) Work around hazardous areas and/or hazardous materials.
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Testing Procedure

All drug and alcohol testing will be performed by a laboratory selected by the City and in accordance with the Drug and Alcohol Testing Procedure.

The laboratory or laboratories shall retain a sample for retesting for a minimum of six (6) months.

Results of Pre-employment Drug Analysis

An applicant who tests positive for drugs or alcohol will not be considered for hire where the applicant's use of drugs and/or alcohol could affect requisite job standards, duties, or responsibilities.

If a drug screen is positive at the pre-employment physical, the applicant must provide as soon as possible, but no later than within 48 hours of request, bona fide verification of a valid prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification or if the prescription medication is one that is likely to impair the applicant's ability to perform essential job functions, the applicant will not be hired.

A positive result for an applicant who is presently a City employee will be forwarded to their supervisor for investigation.

Confidentiality

Laboratory reports or test results will be retained in an employee or applicant's confidential medical file. The reports or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee or applicant; (3) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure; or (4) the City is required by law to report the results, including but not limited to federal grant requirements.

City of Portland Drug & Alcohol Testing for Commercial Driver's License

The City's policy for drugs and alcohol testing for employees assigned duties requiring the possession of a Commercial Driver's License ("CDL") is contained in a separate document. Note that, notwithstanding the exclusion of federally legal CBD from the definition of "drugs" under this policy, employees subject to the CDL policy are required to comply with the CDL drug and alcohol testing standards, including maximum testing thresholds for marijuana. Contact Labor Relations for a copy of that policy.

Administrative Rule History

Adopted by Council March 6, 2002, Ordinance No. 176302
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