

# CITY OF MANITOWOC

## DRUG AND ALCOHOL FREE WORKPLACE POLICY Drug & Alcohol Policy – All Employees

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Distribution: All City of Manitowoc Employees		

### I. PURPOSE

In compliance with the Drug-Free Workplace Act of 1988, City of Manitowoc has a longstanding commitment to provide a safe, quality-oriented and productive work environment consistent with the standards of the community in which the City operates.

### II. POLICY COVERAGE

This policy applies to all full-time, part-time, seasonal, and limited-term employees. This policy also applies to employees who perform “safety sensitive functions” in association with the operation of a commercial motor vehicle in situations where the employee is not governed by the DOT Drug and Alcohol Use Policy.

### III. POLICY

Alcohol and drug abuse poses a threat to the health and safety of City of Manitowoc employees and to the security of the City of Manitowoc equipment and facilities. For these reasons, City of Manitowoc is committed to the elimination of drug and alcohol use and abuse in the workplace. Employee involvement with alcohol and other drugs can be very disruptive, adversely affect the quality of work and performance of employees, pose serious health risks to users and others, and have a negative impact on productivity and morale. The City has established a drug-free workplace program that balances the respect for individuals with the need to maintain a drug and alcohol free environment.

#### A. Prohibited Conduct for all City Employees

1. As required by the Drug Free Workplace Act, all City employees are strictly prohibited from using, possessing, manufacturing, distributing, or dispensing controlled substances while on City property, or operating City equipment or vehicles.
2. City employees are prohibited from reporting for or remaining on duty or performing assigned job duties while under the influence of alcohol or a controlled substance.
3. City managers / supervisors are prohibited from deliberately misusing this policy in regard to subordinates, as well as providing false information in connection with a test, or falsifying test results through tampering, contamination, adulteration or substitution.

#### B. Report of Criminal Conviction

Criminal convictions for manufacturing, distributing, dispensing, possessing or using controlled substances in the workplace must be reported *in writing* to the Human Resources Department no later than 5 calendar days after such conviction. Appropriate action, which may consist of

discipline up to and including termination, will be taken within 30 days of notification. Federal contracting agencies will be notified when appropriate.

## **C. Drug and Alcohol Tests**

### **1. Pre-Employment**

After a conditional offer of employment has been made, the applicant is required to take a pre-employment drug test. Applicants for permanent positions must report for testing within 48 hours of being notified. The applicant shall not be allowed to assume the position until such time the City of Manitowoc has received a verified negative drug test result. An offer of employment will be withdrawn if the employee fails to report for testing within 48 hours unless the failure is due to circumstances beyond his/her control (such as a vehicular accident) or the applicant's test result is anything but negative.

### **2. Reasonable Suspicion**

An employee is required to submit to an alcohol or controlled substance test upon a supervisor's reasonable suspicion to believe that the employee is in violation of this policy. The determination of reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances.

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

1. Upon the employee's removal from the job site, the supervisor should contact the HR Department. If contact cannot be made at that time, the supervisor should proceed to the next step of this procedure and make contact with the HR Department as soon thereafter as possible.
2. The supervisor is to then take the employee to the collection site for drug and/or alcohol testing, and must remain at the site until the test is completed.
3. If the alcohol test is conducted more than two (2) hours, but less than eight (8) hours, after the supervisor makes the reasonable suspicion determination, the supervisor should, if feasible, complete a report explaining the reason for the delay in conducting the test. If the alcohol test is not conducted within eight (8) hours after the supervisor makes such reasonable suspicion determination, or if the drug test is not conducted within twenty-four (24) hours after such determination, the supervisor should, if feasible, complete a report explaining the reasons why the test was not conducted.
4. Once the drug and/or alcohol test has been completed the supervisor is to make arrangements for the employee to be taken home. The employee will not be permitted to drive their own car home at that time. The employee may have a family member or a friend pick them up or the supervisor may take the employee home.
5. The employee is to be advised not to report to work. The City will contact the employee once the test results are known (this normally takes 24-48 hours) and a decision has been made as to the employee's status.
6. The results of the drug and/or alcohol test will be sent directly to the HR Department. When the results are obtained, the employee's supervisor(s) will meet with the HR Department to determine the appropriate course of action to be taken.
7. This is a confidential process. Test results will be held strictly confidential and are not to be discussed or shared with anyone who does not need to know. Likewise, a

supervisor must not discuss the suspected reason for a referral or termination with anyone who does not need to know.

8. Once the test has been completed and the employee has been taken home, the supervisor must submit a written report to the <<HR Department>> outlining in detail what happened and what behavior was observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs. This report is to be done within 24 hours of testing.

### **3. Return-to-Duty/Follow-Up Testing**

An employee is required to undergo an alcohol and/or drug test prior to returning to duty, following a violation of this policy and evaluation by a substance abuse professional (SAP). The results of the test must indicate an alcohol concentration of less than 0.02 and/or a negative result for drug use. The City is responsible for deciding whether the employee is returned to duty.

Following successful compliance with a recommendation for education and/or treatment, the employee must submit to the follow-up testing plan established by the SAP, which shall be provided to the City of Manitowoc. The City must carry out the SAP's follow up testing requirements and must ensure that the tests are unannounced with no pattern to their timing and that the employee is given no advance notice.

### **4. Test Refusal**

The following behavior constitutes a test refusal for drugs and alcohol:

- a. Failure to appear for the test within 30 minutes, with the exception of pre-employment.
- b. Failure to remain at the testing site until the testing process is completed
- c. Failure to provide a urine specimen, saliva or breath specimen, as applicable.
- d. Failure to provide a sufficient volume of urine or breath without a valid medical explanation for the failure.
- e. Failure to undergo a medical examination as part of the verification process.
- f. Failure to cooperate with any part of the testing process.
- g. Failure to permit the observation or monitoring of specimen donation when so required.
- h. Failure to take a second test required by the City or collector.
- i. A drug test result that is verified by the MRO as adulterated or substituted (applicable to drug test only).

### **5. Results of a Positive Alcohol or Drug Test**

Any employee who tests positive for drugs or for alcohol concentration of 0.02 or higher is subject to discipline, up to and including discharge.

### **6. Controlled Substances, Over-the-Counter, and Prescription Medications**

#### **a. Non-Safety Sensitive Positions**

Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with safe performance of his/her job. If the use of a medication could compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to

use appropriate personnel procedures (i.e. call in sick, use leave, request change of duty, change medications, notify supervisor, notify City Occupational Health Clinic) to avoid unsafe workplace practices.

**b. Safety-Sensitive Positions**

Please refer to Appendix A for a list of safety-sensitive positions.

Before performing any work-related duties, employees must notify their supervisor if they are taking any legally prescribed medication, therapeutic drug (to include the use of CBD Oils), or any non-prescription (over-the-counter) drug especially if it contains any measurable amount of alcohol or if it carries a warning label that indicates the employee's mental functioning, motor skills, or judgment may be adversely affected by the use of this medication. It is the responsibility of the employee to inform their physician of the type of safety-sensitive function that they perform in order that the physician may determine if the prescribed substance could interfere with the safe and effective performance of their duties or operation of City of Manitowoc, vehicle and other equipment. However, as required by the Federal Regulations, any employee who uses or possesses medication containing alcohol or any substance which would cause a positive test while on duty or who tests positive for alcohol or controlled substance(s) will be removed from his or her position, and subject to the provisions of this policy, even though the reason for the positive test is the fact that the employee's prescription medication contains alcohol or a controlled substance.

The appropriate use of Rx and OTC is not prohibited. A legally prescribed drug is one where the employee has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. The prescription must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal controlled substances while performing City business is prohibited.

It is the responsibility of any employee to remove themselves from service if they are experiencing any adverse effects from medication or the use of a medication that could compromise the safety of the employee, fellow employees or the public. It is the employee's responsibility to use appropriate personnel procedures (i.e., call in sick, use leave, request change of duty, notify supervisor, notify City Occupational Health Clinic) to avoid unsafe workplace practices.

The City may require an employee to provide documentation from a medical professional verifying the use of a prescription or a legal non-prescription controlled substance will not impair his/her ability to safely and effectively perform his/her job. A physician must specifically advise the employee that the substances in a prescription will not adversely affect the employee's ability to safely perform their job.

Depending on the circumstances, employees may be reassigned, prohibited from performing certain tasks, or prohibited from working if they are determined to be unable to perform their jobs safely and properly while taking the prescription.

**c. Medical Review Officer (MRO)**

The MRO serves as an independent, impartial gatekeeper regarding the accuracy and integrity of drug testing. As a safeguard to quality and accuracy, the MRO reviews each test for accuracy.

When the laboratory reports a confirmed positive, adulterated, substituted, or invalid drug test from the laboratory, test results are reviewed and interpreted by the MRO before they are reported to the City. The MRO conducts a verification process with the employee during which time he/she will obtain information to determine if an alternative medical explanation for the test result.

If the MRO determines that a legitimate medical explanation exists, the drug test result may be reported as negative to the City. Even if there is a legitimate medical explanation and verifies a negative test, the MRO has a responsibility to raise fitness-for-duty considerations with the City. When no legitimate medical reason is established, the MRO may verify a test result as a positive or refusal to test, as applicable.

**7. Confidentiality of Records**

The City respects the confidentiality and privacy rights of all employees. Accordingly, the results of any test administered under this policy and the identity of any employee participating in the City's EAP or other assessment or treatment program will not be revealed by the City to anyone except as required by law. The City will release any employee's records as directed by the express written consent of the employee authorizing release to an identified person. In addition, the City will ensure that any lab, agency or Medical Review Officer (MRO) used to conduct testing under this policy will maintain the confidentiality of employee test records.

The Medical Review Officer (MRO) will not reveal individual test results to anyone except the individual tested, unless the MRO has been presented with a written authorization from the tested employee. The City may be requested by the MRO to have a tested employee contact the MRO if the employee was unable to be reached after a minimum of three (3) attempts over a 24 hour period. The MRO will disclose information related to a verified positive drug or alcohol test of an individual to the HR Director. The City may disclose information to the employee or to the decision maker in a lawsuit, grievance or other proceeding by or on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court orders and subpoenas; or upon the tested employee's written authorization and consent.

All records related to drug and alcohol tests of individual employees will be maintained in individual files separate from the employee's personnel file. These records will be stored in a locked cabinet and access will only be allowed to those City employees who have a legitimate need to review the records of a particular employee.

**D. Self-Admission**

City of Manitowoc strives to maintain a safe and drug free work environment. Alcohol and drug use on the job poses a serious threat to the safety of our employees and the general public. However, the organization also understands the addictive nature of alcohol and certain drugs. The organization greatly values and cares about all employees, and will make every effort to assist any

employee who comes forward and admits the need for help or treatment. To this end, City of Manitowoc has created a qualified self-admission program as detailed below:

- City of Manitowoc will not take any adverse action (loss of seniority, position, title, etc.) against any employee who makes a voluntary admission of having an alcohol or drug problem.
- In the event of a voluntary self-admission, the organization is required to remove the employee from performing, and the employee will be prohibited from performing, or continuing to perform, any safety sensitive functions.
- Self-admitting employees will be given the opportunity to seek treatment (at the employee's expense). The organization shall ensure that the employee is provided sufficient opportunity to seek evaluation, education or treatment to establish control over his or her drug or alcohol problem;
- In order to be permitted to resume performing safety sensitive functions for City of Manitowoc:
  - The organization must be satisfied with and approve the employee's treatment option/program.
  - The employee must successfully complete the treatment program, and provide documentation/certification of completion (as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor).

Further, City of Manitowoc must ensure that:

- Prior to the employee participating in a safety sensitive function, the employee shall undergo a return-to-duty test (at the employee's expense) with a result indicating an alcohol concentration of less than 0.02; and/or
- A return-to-duty controlled substance (at the employee's expense) test with a verified negative test result for controlled substances use; and
- The organization may incorporate employee monitoring and include non-DOT follow-up testing (at the employee's own expense).

#### **E. Prevention and Rehabilitation**

The goals of this policy are prevention and rehabilitation whenever possible, rather than discipline or termination. The City encourages employees who have an alcohol or other drug problem to seek help to deal with their problem.

Help is available through the City's Employee Assistance Program (EAP). For more details on this program, contact Human Resources.

**EMPLOYEE ACKNOWLEDGMENT FORM**  
**Drug and Alcohol Free Policy**

Detach and return this page to the HR Department after you have read and understood this policy.

I acknowledge on the date indicated below that I have received and read the City of Manitowoc Drug and Alcohol-Free Workplace Policy contained herein.

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Printed name

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Signature

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Date