

# **CITY OF SARASOTA DRUG-FREE WORKPLACE PROGRAM**

## **I. PURPOSE**

This City is committed to maintain a safe, healthy and productive work environment for all its employees; to provide professional services for its customers in a timely and efficient manner; to maintain the integrity and security of its equipment and workplace; and to perform all these functions in a fashion consistent with the interests and concerns of the community.

Pursuant to these goals, the City is committed to establishing a Drug-Free Workplace Program to ensure that we will have a drug- and alcohol-free workplace. This program is intended to comply with the Drug-Free Workplace Program requirements set forth in Sections, 440.101-102, Florida Statutes, and the regulations promulgated by the State of Florida, including Chapter 59A-24 of the Florida Administrative Code, which provides authority for drug testing. To the extent these laws are amended or other statutes, rules, or regulations affecting drug testing are passed or promulgated, or are determined to be applicable to City employees or candidates for employment, this policy will be amended without further general notice.

To enforce the City's drug- and alcohol-free policies and programs, candidates for employment and current employees can be required to submit to substance abuse testing under certain circumstances set forth herein.

## **II. SCOPE**

This policy applies to candidates for employment and to City employees in all job classifications at all locations.

## **III. EFFECTIVE DATE**

The effective date of the Drug-Free Workplace Program is October 1, 2001 as amended December 07, 2022.

## **IV. POLICY**

A. For purposes of this policy the following words or phrases have these specified meanings:

1. The term "alcohol" includes any beverage, mixture, or preparation containing ethyl alcohol, including—but not limited to—distilled spirits, beer, wine, malt beverages, hard seltzers, and other intoxicating liquors.
2. The term "drug" means the controlled substances as defined by Sections, 440.101-

102, Florida Statutes and applicable rules and regulations, including—but not limited to— amphetamines, barbiturates, benzodiazepines, cannabinoids (including medically prescribed cannabis and/or CBD or hemp products with a THC content at or above 0.03), cocaine, ethyl alcohol, methadone, methaqualone, opiates, phencyclidine, and propoxyphene.

3. The phrase “illegally or improperly obtained drug” means any controlled substance that is (i) not legally obtainable under all applicable laws; (ii) legally obtainable but has not been legally obtained (for example, consuming or using another person’s prescription); or (iii) being used in a manner or for a purpose other than as prescribed (for example, consumption or use of depressants and stimulants not prescribed for current annual treatment by an accredited physician).
  4. The term "impaired" or "under the influence" means (i) testing positive pursuant to the cutoff levels applicable to this policy and testing program set forth herein, or (ii) being unable to perform the duties of the employee’s position in a safe manner without a heightened risk of injury or harm to the employee, other employees, or third-parties, based on specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience.
- B. It is our policy that the possession, use, consumption, sale, purchase, distribution, dispensation or manufacture by any employee of any alcohol, drugs, illegally or improperly obtained drugs, or CBD or hemp products (e.g., hemp seed oil) in the workplace, on City premises or within its facilities, in the conduct of City-related work off City premises, or when operating City vehicles on- or off-duty, is strictly prohibited. An off-duty employee who is not in uniform may, however, consume alcohol at City facilities or city-sponsored events where the City has approved the service of alcohol but such exception does not encourage, sanction, or authorize any employee to consume alcohol in excess to a point of being intoxicated or to operate a City vehicle while impaired or under the influence in violation of applicable laws. The foregoing prohibitions apply at all times during the work day, including mealtimes and break periods.
- C. It is the City’s intent to comply with all local, state, and federal laws. Where the laws differ, the City will typically comply with federal law.
- D. Nor will the City permit any employee to report to work or to perform his duties, or to be on the City’s premises or work site, for any reason, with the presence of alcohol, drugs, or illegal or illegally or improperly obtained drugs or hemp products (e.g. hemp seed oil), in his body, or while impaired or under the influence of any drug, illegally or improperly obtained drug, hemp product, or alcohol. The use of hemp products will not be considered a legitimate medical explanation for a positive drug test. The City also does not permit any employee to report to work or to perform his duties while taking prescription or non-prescription medication which adversely affect the person's ability to safely and effectively perform his job functions. Employees are required to notify supervision in such instances, but need not disclose the medication being used

or the medical condition involved.

- E. It is a condition of employment to abide by the terms of this policy.
- F. Any employee who violates this policy is subject to disciplinary action up to and including discharge, depending on the individual circumstances involved.

## **V. TYPES OF TESTING**

### **A. JOB APPLICANT TESTING**

All applicants who have received an offer of a job contingent on successfully passing a drug test will be tested.

### **B. REASONABLE SUSPICION TESTING**

An employee may be required to submit to testing when City management or supervision has reasonable suspicion based on specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience that an employee is using or has used any drugs, illegally or improperly obtained drugs, or alcohol in violation of the City's policy. Such evidence may consist of, but is not limited to:

1. Observable phenomena while at work, such as direct observation of drug/alcohol use or of the physical symptoms or manifestations of being under the influence of a drug or alcohol.
2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
3. A report of drug/alcohol use, provided by a reliable and credible source. An anonymous telephone call or report shall not be the sole basis for reasonable suspicion testing.
4. Evidence that an individual has tampered with a drug/alcohol test required by the City.
5. Post-Accident: Information that an employee has caused, contributed to, or been involved in an accident while at work. An employee, who is unable to submit to testing at the time of an accident due to the seriousness of his injuries, is required to provide the necessary authorization for obtaining hospital reports and other documentation that would indicate whether there were any drugs or alcohol in his body system.
6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs/alcohol while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment, not within the scope of his regular

law enforcement duties.

Within 24-hours after testing based on reasonable suspicion, the management or supervisor who recommended the testing shall detail in writing on the City's "Reasonable Suspicion Testing Report Form" the circumstances which formed the basis of the management or supervisor's belief that reasonable suspicion existed to warrant the testing. A copy of this report shall be provided to the employee being tested upon request and the original copy of the report shall be kept confidential as a medical record by the City and retained for at least twelve (12) months. Additionally, when requested, the management or supervisor shall verbally articulate to the officer being tested the basis for the reasonable suspicion testing immediately prior to the testing.

### C. MANDATORY-TESTING POSITIONS

An employee who occupies a job assignment that requires the employee to carry a firearm, work closely with an employee who carries a firearm, perform life-threatening procedures, work with heavy or dangerous machinery, work with children, work with detainees in the correctional system, work with confidential information or documents pertaining to criminal investigations, work with controlled substances, or a job assignment that requires an employee security background check, or a job assignment in which a momentary lapse in attention could result in injury or death to another person is considered to be in a "mandatory-testing position" for purposes of this policy.

If an employee occupying a mandatory-testing position enters an Employee Assistance Program or drug rehabilitation program, the employee will be reassigned to a position other than a mandatory-testing position or, if such position is not available, place the employee on leave while the employee is participating in the program. However, the employee shall be permitted to use any accumulated annual leave credits before leave may be ordered without pay.

### D. RANDOM TESTING

The City reserves the right to require employees, including employees occupying mandatory-testing positions, to submit to unannounced drug/alcohol testing when selected pursuant to the random selection process, which the City shall strictly follow to ensure the random nature of any selections.

Each month, a City of Sarasota Human Resources Generalist will provide Marathon Health (corporate office out of state) with an updated random drug testing eligibility list. Using a computer program, ten names will be randomly selected every month and faxed to the Sarasota Police Department Internal Affairs and Complaints Section. Information pertinent to the random drug testing program is confidential and not subject to public record requests.

The Internal Affairs and Complaints Section will notify the selected member's supervisor and provide the supervisor with a Forms Packet consisting of the following documents:

- A: Drug Testing Notification Form
- B. Testing Consent Form
- C. Member Drug Testing Procedure/Checklist
- D. Urine Collection Checklist
- E. A map
- F. Pre-and Post-Testing Donor's Report of Medication Use
- G. Florida Drug- Free Workplace Chain of Custody Form

The selected member's supervisor will serve the member with the Drug Testing Notification Form and provide the employee with the remaining forms in the Forms Packet. The supervisor will require the employee to complete the Testing Consent Form. The supervisor will serve the member in the morning as soon as possible on Monday through Friday or the supervisor will serve the member at the conclusion of the shift for those employees working nights. Employees not present due to illness, vacation, in-service or other reason will not be served until they return to work.

The supervisor will not notify the member of the pending drug test until the actual time of the service. Within 24 hours after service, the supervisor will return the Drug Testing Notification Form and the Testing Consent Form to the Internal Affairs and Complaints Section. If the supervisor is not able to serve the member, the supervisor will immediately notify the Internal Affairs and Complaints Section of the reason and when it is expected that service will occur. (Example: Officer X is on vacation until July 10 and will return to work July 11.) Members will not be served on weekends.

The member will have one hour from the time of service to respond to the collection site (City of Sarasota Employee Health Center) during business hours (6:00 a.m. to 4:00 p.m. Monday through Friday) or will respond immediately upon completion of their shift if working nights. The member will follow the employee drug-testing checklist. The member will forward the Employer's copy of the Florida Drug- Free Workplace Chain of Custody Form upon completion of the test and return it to Internal Affairs and Complaints within 24 hours. The member will retain the Donor's copy of the Florida-Drug Free and Workplace Chain of Custody Form.

#### E. FOLLOW-UP TESTING

If in the course of employment an employee is required by the City to enter an Employee Assistance Program for drug/alcohol-related problems or a drug/alcohol rehabilitation program, the employee must submit to drug testing as a follow-up to such program, at least once a year, without advance notice, for two years thereafter. Additional types of testing, such as random testing, may be required, as deemed necessary by the City as a part of the follow-up testing, which shall be without advance notice of any kind. Other terms and conditions of continued employment may also be imposed.

#### F. TRANSFER OR PROMOTIONAL TESTING

Personnel currently employed in a non-mandatory position, who seek transfer or are promoted into a safety sensitive position, will be required to submit to, and pass, a drug test.

## **VI. CONDITIONS OF TESTING**

### **A. CONFIDENTIALITY**

All information, interviews, reports, statements, memoranda, and drug test results, received by the City in conjunction with this Drug Testing Program are considered confidential communications and such information will not be disclosed or released except as authorized pursuant to state law or regulations or written consent by the person tested. Generally, disclosure is required if compelled by a hearing officer, arbitrator, or a court of competent jurisdiction, and for determining qualification for reemployment assistance and/or unemployment compensation benefits.

### **B. PROGRAM INFORMATION ACKNOWLEDGMENT**

A program information acknowledgment form acknowledging that the officer has received a copy of, and understands, the terms of the program will be signed by the officer and maintained by the City.

### **C. REFUSAL TO SUBMIT TO TESTING**

Job applicants and employees are expected to cooperate fully in providing specimens and explanations which may be subsequently required by this Policy. Failure to provide specimens, attempts to contaminate or adulterate specimens or otherwise interfere with City procedures will be grounds for disciplinary action up to and including discharge or disqualification for further employment consideration. In the case of a "negative/dilute" test result, the donor will be required to immediately provide another specimen. A second negative/dilute result for an employee will subject the employee to immediate termination. An employee who is injured in the course and scope of his employment and who refuses to submit to a drug test, or who tests positive, in addition to the above, may forfeit his eligibility for Florida Workers' Compensation medical and indemnity benefits. Any City group health/medical insurance in effect does not cover injuries sustained in the course and scope of employment.

## **VII. TESTING PROCEDURES**

### **A. LICENSED/CERTIFIED LABORATORY**

All drug testing will be conducted by a City-designated laboratory which is licensed by the State of Florida Agency for Health Care Administration or certified by the United States Department of Health and Human Services. The testing will be conducted with appropriate chain of custody procedures in place to ensure accuracy and continuity in specimen collection, handling, transfer and storage.

### **B. DRUGS TO BE TESTED**

When testing is conducted in conjunction with this program, the City may test for any or all of the following drugs: amphetamines, barbiturates, benzodiazepines, cannabinoids, cocaine, ethyl alcohol, methadone, methaqualone, opiates, phencyclidine, and propoxyphene.

### **C. REPORTING MEDICATION WHICH MAY ALTER OR AFFECT A DRUG TEST RESULT**

1. Each applicant/employee shall be provided a form which will enable them to report, both before and after being tested, the use of prescription or non-prescription medication which may alter or affect the outcome of a drug test as well as any other information relevant to the drug test result. The reverse side of the above-referenced form shall contain a list of the most common medications, by brand name or common name, as well as by chemical name, which may alter or affect a drug test result. The information provided by the employee or job applicant should be kept confidential by the employee or applicant and shall be reviewed only by a Medical Review Officer (MRO), who shall be a licensed physician, interpreting any confirmed positive results.
2. Job applicants and employees have the right to consult with a Medical Review Officer (MRO) for technical information regarding prescription and non-prescription medication to determine whether the medication has affected a drug or alcohol test result.

### **D. COST OF TESTING**

The City will pay the costs of initial and confirmation drug testing which it requires of job applicants and employees. Applicants and employees shall pay the cost of any additional drug testing not required by the City.

### **E. COLLECTION SITE AND LABORATORY ANALYSIS PROCEDURES**

Security of the collection site, chain of custody procedures, privacy of the individual, collection control, integrity and identity of the specimen and transportation of the

specimen to the laboratory, as well as all laboratory security, laboratory chain of custody, transporting and receiving of specimens, specimen processing, retesting, storage of specimens, instrument calibration and reporting of results, shall be in accordance with §§ 440.101-102, Florida Statutes., and their attendant rules and regulations as established by the State of Florida, Agency for Health Care Administration, Rule 59A-24, F.A.C. These procedures are intended to ensure that specimens are properly collected, identified and tested.

## **VIII. RELEASE AND REVIEW OF TEST RESULTS**

### **A. MEDICAL REVIEW OFFICER (MRO)**

The City will engage a certified Medical Review Officer (MRO) who is a licensed physician, who will be responsible for receiving and reviewing all confirmed test results from the testing laboratory. The MRO will contact all positively tested individuals to inquire about possible prescriptive or over-the-counter medications or other factors which could have caused a positive test result, and to provide technical assistance for the purpose of interpreting the result.

### **B. REPORTING RESULTS**

1. The testing laboratory will report all drug test results to the MRO within seven (7) working days after receipt of the specimen by the laboratory, and must provide the MRO quantification of the test results upon request. Only specimens which are confirmed as positive on the confirmation test shall be reported positive to an MRO for a specific drug.
2. The MRO will notify the applicant/employee of a confirmed positive test result within five (5) working days of receipt of the test result from the laboratory and will inquire whether prescriptive or over-the-counter medications or other factors could have caused the positive test result. The MRO may use a language interpreter to assist in communicating the drug test results with employees and job applicants.
3. If the MRO is unable to contact a positively tested donor within five (5) working days of receipt of the test results from the laboratory, the MRO will contact the City and request that the City direct the donor to contact the MRO as soon as possible. If the MRO has not been contacted by the donor within two (2) days from the request to the City, the MRO will verify the test result as positive. If the donor refuses to talk with the MRO regarding a positive test result, the MRO will validate the result as positive and annotate such refusal in the remarks section of the report.
4. The donor will have five (5) working days from the date of notification to discuss the positive test result with the MRO and to submit information/documentation of use of prescription or over-the-counter medication or other factors relevant to the positive test result.



5. The MRO will notify the City in writing of the verified test result, either negative, positive or unsatisfactory, no more than seven (7) working days after the specimen was received by the lab. If the MRO determines that there is a legitimate medical explanation for the positive test result, the MRO will report a negative test result to the City. However, should the MRO feel that the legal use of a medication would endanger the donor or others, or if the donor is in a safety sensitive or special risk position at the City, then the MRO will report the test negative due to a validated prescription, but will request that the individual be placed in a position which would not threaten the safety of the donor or others.

#### C. EMPLOYER NOTICE TO DONOR OF TEST RESULTS

Within five (5) working days after receipt of a confirmed positive test result from the MRO, the City will inform the donor in writing of such positive test results, the consequences of the results, and the options available to the donor, including the right to file an administrative or legal challenge. Upon request, a copy of the test results shall be provided to the donor.

### **IX. CHALLENGES TO TEST RESULTS**

#### A. INTRA-CITY CHALLENGE

1. The donor has five (5) working days after receiving notice from the City of a confirmed positive test result, to submit information to the City explaining or contesting the test result(s) and why the result does not constitute a violation of the City's policies.
2. If the donor's explanation or challenge of a positive test result is deemed unsatisfactory by the City, the City shall within fifteen (15) days of receipt of the donor's explanation or challenge, provide the donor with a written explanation as to why his explanation is deemed unsatisfactory, along with the report of positive result(s). All such documentation shall be retained by the City as a medical record for at least one (1) year and shall be kept confidential pursuant to the confidentiality provisions outlined in this policy.

#### B. ADMINISTRATIVE OR LEGAL CHALLENGE

The applicant/employee may undertake an administrative challenge of the test result by filing a claim for benefits with a Judge of Compensation Claims pursuant to Ch. 440, F.S., or if no workplace injury has occurred, the donor may challenge the test result in a Court of competent jurisdiction or through arbitration as provided for in a collective bargaining agreement. When a donor undertakes a challenge to the results of a test, it shall be his responsibility to notify the employer and testing laboratory of the challenge, and the testing sample shall be retained by the laboratory until the case is settled.

## **C. INDEPENDENT TESTING**

In the event of a positive test result, the donor, during the 180-day period after written notification of a positive test result, may request independent testing at his own expense of a portion of the tested specimen for verification of the test result. The laboratory utilized for the independent testing must also be licensed by the State of Florida Agency for Health Care Administration or certified by the United States Department of Health and Human Services. The result(s) of the independent testing may be used in any administrative or legal challenge.

## **X. CONSEQUENCES OF POSITIVE TEST RESULTS/DISCIPLINARY ACTION**

### **A. JOB APPLICANTS**

If the results of a pre-employment drug test are confirmed positive, the job applicant will be disqualified from further employment consideration.

### **B. EMPLOYEES**

1. Any employee whose test results are confirmed positive will be subject to disciplinary action up to and including termination.
2. The City reserves the right to assign an employee to administrative leave with pay pending the release of the results of a drug test or the outcome of an investigation related to a violation of the City's drug/alcohol-free workplace policy.
3. If an employee is injured in the course and scope of his employment and test results are confirmed positive, the employee, in addition to the above, may forfeit his eligibility for all medical and indemnity benefits under the Florida Workers' Compensation Act. Any City group health/medical insurance in effect does not cover injuries sustained in the course or scope of employment.

## **XI. DRUG/ALCOHOL-FREE WORKPLACE AWARENESS/EDUCATION PROGRAM**

### **A. OBJECTIVE**

This Awareness/Education Program is designed to help achieve the City's goal of maintaining a drug/alcohol-free workplace.

### **B. ELEMENTS**

1. Ongoing communications to City employees and supervisory personnel that include educational and informational materials advising about the dangers of drug and alcohol use and/or abuse.
2. Display and distribution to City employees of community service hot-line telephone

numbers for employee assistance concerning drug and alcohol use and/or abuse.

3. Specific training of City's management and supervisory personnel who are responsible for determining when an individual is subject to testing based on "reasonable suspicion." Such training will encompass the specific, contemporaneous physical, behavioral, and performance indications of probable drug use.
4. Education for all City employees to assist them in identifying personal and emotional problems which may result in the misuse of alcohol or drugs. The course will include a presentation on the legal, social, physical and emotional consequences of misuse of alcohol or drugs.
5. Maintaining a current resource file of EAP providers, including alcohol and drug abuse programs, mental health providers, and various other entities designed to assist employees with personal or behavioral problems.
6. Advise employees of any EAP programs that the City may have available, and provide a representative sampling of local drug/alcohol rehabilitation programs and employee assistance programs.
7. Provide notice of drug testing on vacancy announcements for upcoming jobs.
8. Post notice of City's drug/alcohol-testing policy.
9. Make copies of drug/alcohol testing policy available for inspection by employees and job applicants.

## **XII. REHABILITATION**

The City supports sound treatment efforts. No employee will be retaliated against for voluntarily seeking assistance for problems relating to drug/alcohol use and/or abuse. It is the City's desire that individuals will be allowed to address and resolve any drug- and alcohol-related problems on a confidential basis.

Should an employee realize that he has developed a dependence on drugs, alcohol or any controlled substance, he is advised to seek trained, professional assistance immediately. Employees are encouraged to seek rehabilitation on a voluntary and confidential basis (without disciplinary penalty) prior to any management action, to address and resolve any drug- and alcohol-related problems. However, if the employee works in a mandatory-testing position, it is incumbent upon the employee to inform his immediate supervisor of his entry into a rehabilitation program for drug and/or alcohol problem(s). The City reserves the right to require an employee to use an EAP or drug rehabilitation program selected by the City. In such cases, the City will pay the cost of the program. In all other cases, the cost will be paid by the employee, unless it is covered by insurance.

## **XIII. SEARCHES**

### **A. SEARCH POLICY**

In order to effectively implement the City's Drug-Free Workplace Program, the City retains the right to conduct searches and inspections whenever there is objective evidence, which shall be detailed in writing within 24-hours of the search or inspection, that an employee may be in possession of alcohol on City property or within its facilities, or may otherwise be in violation of City policy except for City facilities or city-sponsored events where alcohol is served with the approval of the City and the employee is off-duty and not in uniform. The City shall not conduct routine or random searches or inspections. Additionally, when requested, the supervisor shall verbally articulate to the officer being tested the basis for the search or inspection immediately prior to the search.

### **B. GUIDELINES**

When searches or inspections are necessary, they will be conducted according to the following guidelines:

1. The search or inspection will occur in the presence of at least one witness of the City's choice and may include the employee's locker, vehicle, desk or any City or personal property carried by or under control of the employee.
2. A list of contents of the area or items searched will be made and witnessed to protect the rights of the employee to that property.
3. If the search uncovers material which is believed to be unauthorized drugs, alcohol or other prohibited items, the City representative may confiscate the material. The employee will be given a receipt for any material taken. Authorized or lawful possessions of the employee will be returned.
4. Entry onto the City premises (including the parking lot) constitutes consent to a search and inspection. In addition, the execution of a "Program Acknowledgment Form" will be required of each employee prior to a search or inspection. Refusal will result in the employee's termination from the City's employment.
5. If a search or inspection reveals the presence of unauthorized alcohol, drug, or illegally or improperly obtained drug, the employee will be subject to immediate drug and alcohol testing, and disciplinary action, up to and including termination of employment.

#### **XIV. CONCLUSION**

It is in the best interests of the City to maintain a workplace which is free from the presence of alcohol and drugs and free from the impairments associated with alcohol and drug use and/or abuse. Our concerns with respect to employee safety and health, product quality, and integrity and security of our equipment and workplace require that we take an active approach to maintain a safe, healthful, drug- and alcohol-free work environment for all employees. In furtherance of these corporate goals, the City has established this Drug-Free Workplace Program, which is intended to comply with the Drug-Free Workplace Program requirements under §440.102, F.S. and regulations promulgated by the State of Florida.

The policies and procedures set forth in the City's Drug-Free Workplace Program constitute statements of policy only, and are not to be interpreted as a contract of employment between the City and any of its employees. The City reserves the right to change, modify, or delete any of the Program's provisions and policies at any time. The policies contained in this Drug-Free Workplace Program supersede all prior City policies on substance abuse.