

**Substance Abuse Program & Policy****1.4.2****PURPOSE**

It is the policy of the City of San José to maintain a safe, healthful and productive work environment for all employees. To that end the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of the particular job), which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or tends to undermine public confidence in the City's workforce.

This policy provides guidelines for self-referral, formal referral, and assessments for employees that may be experiencing issues associated with alcohol misuse and/or substance use and for-cause alcohol and/or drug testing for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of management and employees. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination.

In recognition of the serious duty entrusted to employees of the City, with knowledge that drugs and alcohol do hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of San José.

**APPLICATION****A. Personnel**

- a. Full-time and permanent, benefited part-time employees in the following employee/bargaining units:
  - i. Association of Building, Mechanical and Electrical Inspectors (ABMEI)
  - ii. Association of Engineers and Architects (AEA), IFPTE, Local 21
  - iii. Association of Legal Professionals of San José (ALP)
  - iv. Association of Maintenance Supervisory Personnel (AMSP), IFPTE, Local 21
  - v. City Association of Management Personnel (CAMP), IFPTE, Local 21
  - vi. International Association of Firefighters, San José Firefighters Local 230 (IAFF)
  - vii. International Brotherhood of Electrical Workers (IBEW), Local 332
  - viii. Municipal Employees' Federation (MEF), AFSCME Local No. 101
  - ix. International Union of Operating Engineers (OE#3), Local No. 3
  - x. San José Police Dispatchers' Association (SJPDA)
  - xi. San José Police Officers' Association (POA)
  - xii. Peace Officer Park Ranger Association (POPRA)
  - xiii. Executive Management and Professional Employees (Unit 99)
  - xiv. All Unrepresented employees
- b. Unbenefited employees are subject to all rules and responsibilities of this policy; please see applicable MOA/Compensation Summary for information regarding benefits.

**B. Substances**

- a. Alcohol;
- b. Illegal drugs; and

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- c. Prescription drugs and other substances which may impair an employee's ability to effectively and safely perform the functions of the job.

**POLICY**

It is the policy of the City that employees:

- Shall not report to work under the influence of alcohol or drugs or exhibit symptoms of alcohol or drug use;
- While on duty shall not use, possess, sell or provide drugs or alcohol;
- Shall not have the ability to work or be on paid stand-by when impaired as a result of the use of alcohol or drugs.

An employee is required to notify his/her supervisor when any medications or drug he/she is taking could create an unsafe and/or dangerous situation.

In the event there are questions regarding an employee's ability to safely and effectively perform assigned duties when using such medications or drugs, clearance from the employee's treating physician will be required. If an employee is prescribed medication or drugs in relation to a work-related injury or illness, the doctor treating the employee for the work-related injury or illness shall provide the required clearance.

The City has established an Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for issues associated with alcohol misuse and/or substance use. Employees may contact their supervisors or the Department of Human Resources for additional information.

Employees reasonably believed to be under the influence of alcohol or drugs, as described under the Management Responsibilities and Guidelines Section, Paragraph B, shall be prevented from engaging in further work and shall be instructed to wait for a reasonable time until a Department designee can transport the employee from the worksite to home or an appropriate medical facility.

Violations of this policy may be grounds for disciplinary action, up to and including termination for serious or repeated infractions. Refusal to submit immediately to an alcohol and/or drug analysis, pursuant to this policy, when requested by management will constitute insubordination, which alone will form a basis for discipline.

**RESPONSIBILITIES****Employee Responsibilities:**

- A. Not report to work while their ability to perform their job duties is impaired due to alcohol or drug use;
- B. Not possess or use, or have the odor of alcohol or drugs on their breath during working hours or while operating any City vehicle or equipment;
- C. Not directly or through a third party sell or provide drugs or alcohol to any person or to any other employee while either employee or both employees are on duty, or paid stand-by;

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- D. Submit immediately to reasonable requests for alcohol and/or drugs analysis when requested by a designee of a Department Director and if in a bargaining unit, may request Union representation.
- E. Notify their supervisor, before operating City equipment, when taking any medications or drugs, prescription or non-prescription, which may create an unsafe or dangerous situation for the public or the employee's co-workers, including but not limited to valium, muscle relaxants, and painkillers, and
- F. Provide within 72 hours of request from the Medical Review Officer, who will attempt to contact an employee three times in a 24 hour period, a current valid prescription or any other medical verification requested for any drug or medication identified when a drug screen/analysis is non-negative. The prescription must be in the employee's name.

**Management Responsibilities and Guidelines:**

- A. Managers and supervisors are responsible for consistent enforcement of this policy, i.e., that an employee's refusal to comply constitutes insubordination that will result in disciplinary action. Any supervisor who knowingly permits a violation of this policy by employees under their direct supervision shall be subject to disciplinary action.
- B. A Department Director or designee may request that an employee submit to a drug and/or alcohol analysis when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol. "Reasonable suspicion" is a belief based on objective and articulable facts sufficient to lead a reasonable prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform their job safely is reduced.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

1. A pattern of documented abnormal or erratic behavior;
  2. Direct observation of drug or alcohol use; or information provided by a reliable and credible source that an employee has engaged in drug or alcohol use, the identity of which source shall be available to the employee and if employee is in a bargaining unit, the bargaining unit;
  3. Presence of the mental or physical symptoms of drug or alcohol use (e.g., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes);
  4. A work related accident in conjunction with other facts which together support reasonable cause.
- C. Any manager or supervisor should immediately notify another supervisor to meet them to observe the employee's behavior prior to directing an employee to submit to a drug and/or alcohol analysis. If the employee is in a bargaining unit and requests Union representation, the employee will be allowed the opportunity to secure such representation. The process for

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directing an employee to submit to a drug and/or alcohol test is outlined below (numbers 1 - 7).

Additionally, if an employee believes an employee not under their supervision has an issue associated with alcohol misuse and/or substance use and should be tested or referred, they should contact the **Office of Employee Relations** who will notify the Department Director or designee. Should the Department Director or designee concur that the employee appears to be in violation of the policy, the following procedure shall immediately be applied:

1. The manager or supervisor shall document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.
2. Any manager or supervisor requesting an employee to submit to a drug and/or alcohol analysis shall be responsible for the employee's transport to the City's designated occupational health clinic, Carbon Health. Carbon Health's normal business hours are Monday – Sunday 9:00 a.m. – 7:00 p.m. with several locations throughout the San José area. The location nearest to City Hall is listed below. Please see the [Carbon Health website](#) for additional locations, dates and times.

1411 Berryessa Road, #30  
San Jose, CA 95133  
Phone: (408) 689-7020

If the incident occurs after-hours, weekends, holidays or at other times when Carbon Health is closed, contact:

Butterfield Testing Solutions  
Phone: (503) 925-8428

Butterfield is a mobile testing service and will respond to the employee's location provided by the supervisor requesting the test. Butterfield is staffed by certified technicians. All test results will be treated as confidential and returned to the City.

If there are exigent circumstances where Carbon Health and Butterfield are not available or the employee needs immediate medical attention, the alcohol/drug testing can be performed at an emergency room.

3. Any manager or supervisor encountering an employee who refuses to submit to a drug and/or alcohol analysis upon direction shall remind the employee of the requirements and consequences of this policy. The manager or supervisor should ask the employee to wait a reasonable time until an authorized City representative can transport the employee home.
4. Managers and supervisors shall not physically search employees.
5. Managers and supervisors shall notify the Police Department when they have reasonable suspicion to believe that an employee may have illegal drugs in their possession.

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6. Managers and supervisors shall not confiscate, without consent, prescription drugs or medications from an employee who has a prescription.
  7. The employee will be informed of the requirement that they undergo testing in a confidential manner, by one of the supervisory employees who made the reasonable suspicion determination.
- D. A manager or supervisor may require an employee to attend an initial screening session with the Employee Assistance Program (EAP) as an alternative to drug or alcohol testing. The employee shall provide proof of attending the initial appointment. Failure to attend or to provide proof of such attendance may subject the employee to disciplinary action. Actual results of the initial screening shall be subject to disciplinary action. Actual results of the initial screening shall be subject to normal confidentiality provisions. The employee's decision to attend or not attend follow-up sessions shall be voluntary.
- E. Demands for drug or alcohol analysis by supervisors or managers, which are determined to be malicious or vexatious will not be tolerated and will subject the directing individual to disciplinary action.
- F. Results of Drug and/or Alcohol Analysis:
1. Upon a negative result, the employee shall return to work if otherwise fit for duty. All records and documentation shall be purged.
  2. If the test result is positive, the following shall apply:

**First Offense**

In an effort to encourage the employee to take responsibility, the first violation of this policy will result in a formal, required referral to the **Employee Assistance Program (EAP)**, using the established referral procedures in addition to any disciplinary action the City may impose for violations of this policy. A written record of this referral will be maintained in a restricted confidential employee medical file. **EAP** will assess the employee's situation. An employee declining to be assessed by **EAP** may be subject to disciplinary action independent of any other misconduct resulting from a positive test.

Treatment is available through the employee's health insurance plan. The employee will pay the thirty percent (30%) of treatment costs, and the City will pay the remaining seventy percent (70%) of treatment costs not covered by the employee's health insurance for one treatment program.

No disciplinary action will be imposed for refusal of treatment; however, misconduct including being under the influence of drugs and/or alcohol in the workplace and/or while on duty and/or while on standby or any action constituting a violation of this policy will continue to be subject to discipline, subject to applicable due process for City employees.

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During an employee's career, a second opportunity for assessment may be offered in the event of a relapse. Discipline, which could result in termination, may be imposed for the second violation of this policy, subject to due process for City employees. If a second treatment program is allowed, the employee will be responsible for the cost. The employee may request a split sample be tested at another facility at City expense to provide a second independent result.

**Confidentiality**

Laboratory reports or test results, if positive only, shall appear in an employee's confidential medical file. The reports or test results may be disclosed to a Department Director or designee and Human Resources Director on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without employee consent, may also occur when: (1) the information has been placed at issue in a formal dispute between the employer and employee, including employee discipline; (2) the information is to be used in administering this program; (3) the information is needed by medical personnel for the diagnosis or treatment of the employee who is unable to authorize disclosure.

**Procedure: Drug Testing**

If the test is conducted by the City's designated occupational health clinic, Carbon Health, Carbon Health's drug testing procedures for handling drugs shall be followed. Carbon Health's normal business hours are Monday – Sunday 9:00 a.m. – 7:00 p.m. There are several locations throughout the San José area, the location nearest to City Hall is listed below. Please see the [Carbon Health website](#) for additional locations, dates and times.

1411 Berryessa Road, #30  
San Jose, CA 95133  
Phone: (408) 689-7020

Testing on nights or weekends will be referred to the City's after-hours testing vendor, Butterfield Testing Solutions. Butterfield will respond to the employee's location and conduct testing onsite. Butterfield can be reached by contacting:

Butterfield Testing Solutions  
Phone: (503) 925-8428

If there are exigent circumstances where Carbon Health and Butterfield are not available or the employee needs immediate medical attention, the alcohol/drug testing can be performed at an emergency room.

Presence of drugs in the employee's system will be reported as positive in the initial and confirmation test if the amount exceeds the minimum detection levels.

In addition to drug screening, alcohol level will be reported as positive if it is present at greater than or equal to 0.04g.

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The City will make a substance abuse assessment available to employees in the following ways:

**1. Self Referral**

- A. If an employee believes they have issues associated with alcohol misuse and/or substance use, they should contact their medical provider and/or may make a confidential appointment with a counselor at **EAP** for an assessment and possible recommendation to seek an evaluation under the employee's health plan. Employees who self-refer will remain confidential and the City will not receive any information related to EAP sessions or from an employee's medical provider.

**2. Formal Referrals**

- A. If an employee's pattern of work behavior indicates an issue is potentially related to alcohol misuse and/or substance use, the supervisor may contact the **EAP**, define the issues and initiate a formal referral.
- B. The employee will be advised to go to the **EAP** for assessment and possible recommendation to seek an evaluation under the employee's health plan.

**3. Positive Drug Test**

- A. The first time an employee tests positive on a drug test, the Department Director or designee will contact the EAP and initiate a formal referral. An assessment by the **EAP** is required. If the EAP counselor recommends the employee seek a medical evaluation under their health plan, and that evaluation determines treatment is needed, participation in treatment is voluntary.
- B. The employee will sign a release allowing the **EAP** to advise the City about whether a recommendation was made that the employee seek a medical evaluation under their health plan. No information can be released about the issue or possible treatment.

**4. Settlement of a Proposed Discipline**

- A. If an employee has received a Notice of Intended Discipline for misconduct or job performance, either on or off the job, which has a substance abuse component, the City may agree to waive the discipline, if the employee will agree to and successfully comply with a treatment program.
- B. The specific terms of the agreement are determined on a case-by-case basis, including requiring the employee to submit to follow-up random drug and/or alcohol testing for a specified period of time. The intent, however, is not to relieve the employee of responsibility for their actions. It is to encourage maximum access to rehabilitation.

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### 5. Treatment Options

If an employee seeks a medical evaluation under their health plan, and that evaluation determines treatment is needed, treatment options available under an employee's health plan may include:

**Structured Inpatient Program:** Inpatient facilities are licensed by the California Department of Health Services under two ratings:

- CDRH: Chemical Dependency Recovery Hospital located in an acute-care hospital.
- CDRS: Chemical Dependency Recovery Service, which is a free-standing residential facility.

Inpatient treatment may be required when a client has a lengthy history of abuse, is in an advanced stage dependency, has significant associated medical issues, or has little family support. This program would include detoxification waiting period.

**Structured Outpatient Program:** Outpatient facilities are not currently licensed. This treatment may be appropriate when a client is in the early or middle stages of dependency, is not resistant to treatment, and has family support.

**Alcoholics Anonymous:** When chemical dependency is in an early stage, intensive participation in assistance programs, such as Alcoholics Anonymous, in conjunction with supportive counseling at **EAP** may be appropriate. This approach has proven successful when a client is very strongly motivated to recover and has the support of the family.

**Accommodations or Leave:** Any employee seeking treatment who has work restrictions or needs a leave of absence, shall provide medical verification. Employees with work restrictions will be engaged in the interactive process under the City's Reasonable Accommodation Program and employees who need leave will be provided with information to apply for a leave of absence, including information about Family and Medical Leave (FMLA) and California Family Rights Act (CFRA).

### 6. Funding

The City will pay seventy percent (70%) of treatment costs for a plan approved for the employee, which are not covered by the employee's health insurance for one treatment program.

The employee will pay the remaining thirty percent (30%) of treatment costs.

Approved:

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/s/ Aram Kouyoumdjian  
Director of City Manager's Office of  
Employee Relations/Human Resources  
Department

\_\_\_\_\_  
September 9, 2025  
Date

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Approved for posting:

\_\_\_\_\_  
/s/ Jennifer A. Maguire  
City Manager

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September 9, 2025  
Date