

The City of Fernandina Beach

Drug-free Workplace Policy

Revised March 3, 2015

The City of Fernandina Beach Drug-Free Workplace Policy

In a commitment to safeguard the health of our employees and to provide a safe working environment for everyone, we have established a Drug Free Workplace Policy for the City of Fernandina Beach. This policy complies with the Drug Free Workplace Program Requirements of Chapter 440, Florida Statutes, applicable federal and Florida Department of Transportation and Federal Motor Carrier Safety Administration regulations, as well as other applicable federal and state laws.

Employees with questions regarding this policy should contact the Human Resources Director.

1) Definitions

- a) “Alcohol” means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl isopropyl alcohol.
- b) “Alcohol Use” means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
- c) “Collection Site” means a place where individuals present themselves for the purpose of providing a specimen to be analyzed for the presence of drugs or alcohol.
- d) “Commercial Driver License” or “CDL” means a Class A, Class B, or Class C driver’s license issued in accordance with the requirements of Chapter 322, Florida Statutes, or other applicable class of driver’s license issued in accordance with any other state law.
- e) “CDL Employee” refers to an employee who is required to hold a commercial driver’s license and operate a commercial motor vehicle in conjunction with their employment.
- f) “Confirmation Test” for alcohol testing means a second test, following a screening test, which provides quantitative data of alcohol concentration. For controlled substances testing, confirmation testing means a second analytical procedure to identify the presence of a specific drug or metabolite in a specimen which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test to ensure reliability and accuracy.
- g) “Controlled Substance” is a drug with the potential for abuse or a substance having properties of a central nervous stimulant or depressant or a hallucinogen. Any substance named or described in Schedules I –V of Section 893.03, Florida Statutes is a controlled substance.
- h) “Drug” means alcohol, including distilled spirit, wine, a malt beverage or an intoxicating liquor, an amphetamine, cannabinoid, cocaine, opiates, phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, benzodiazepines, a synthetic narcotic, a designer drug or a metabolite of any of the substances listed in this paragraph.

- i) “Drug Test” means any chemical, biological, or physical instrumental analysis, administered by a laboratory certified by the United States Department of Health and Human Services or licensed by the Agency for Health Care Administration, for the purpose of determining the presence or absence of a drug or its metabolites.
- j) “Employee” means any person employed by the City of Fernandina Beach.
- k) “Employer” refers to the City of Fernandina Beach.
- l) “Initial Drug Test” means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens, using an immunoassay procedure or an equivalent, or a more accurate scientifically accepted method approved by the United States Food and Drug Administration or the Agency for Health Care Administration as such more accurate technology becomes available in cost-effective form.
- m) “Job applicant” means a person who has applied for a position with the City of Fernandina Beach and has been offered employment conditioned upon successfully passing a drug test; or a person who seeks a transfer to a special risk or safety sensitive position with the City of Fernandina Beach.
- n) “Medical Review Officer” or “MRO” means a licensed physician, employed with or contracted with an employer, who has knowledge of substance abuse disorders, laboratory testing procedures, and chain of custody collection procedures; who verifies positive, confirmed test results; and who has the necessary medical training to interpret and evaluate an employee’s positive test result in relation to the employee’s medical history or any other relevant biomedical information.
- o) “Nonprescription medication” means a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.
- p) “Prescription medication or drug” means any drug or medication legally attainable only by prescription.
- q) “Refusal to Submit” to a test may include, but is not limited to, the following: the failure to appear for any test within a reasonable time, failure to remain at the testing site until the process is complete, failure to provide a sufficient amount of specimen without adequate medical explanation, failure to permit observation or monitoring when required, providing a negative dilute sample without adequate medical explanation to the MRO, failure to undergo a medical examination as directed by the MRO as part of the verification process, having a verified adulterated or substituted test result as reported by the MRO, or failure to cooperate with any part of the testing procedure.
- r) “Safety Sensitive” means a position in which drug impairment constitutes an immediate and direct threat to public health or safety.
- s) “Special Risk” position means a position that is required to be filled by a person who is certified under Chapter 633 or Chapter 943, Florida Statutes.

- t) (t) “Specimen” means a product of the human body capable of revealing the presence of drugs or their metabolites.

2) Rules of Conduct

The City of Fernandina Beach strictly prohibits its employees from possessing or being under the influence of alcohol or drugs, other than the proper use of prescription medications or non-prescription medications while on duty or on the City’s premises. The City further prohibits its employees from misusing or possessing, distributing, or using drugs or alcohol while off-duty to the extent that such off-duty conduct impacts the employees’ effectiveness or ability to perform their job, or to the extent that such off-duty conduct adversely impacts the interests of the City.

The employment of an employee found to be under the influence of drugs, or possessing, manufacturing, using, distributing, buying, selling, trading, or offering for sale drugs or alcohol will face corrective action, up to and including termination of employment.

If the use of prescription medications or non-prescription medications may adversely affect an employee’s work performance, the employee should notify the City. Abuse or misuse of prescription medications or non-prescription medications is prohibited.

No CDL employee shall report for duty or remain in duty requiring the performance of safety sensitive functions when using any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the ability to safely operate a commercial motor vehicle. No CDL employee shall report for duty, remain on duty or perform a safety-sensitive function if the employee tests positive for controlled substances.

No CDL employee shall report for duty or remain in duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No CDL employee shall use alcohol while performing safety-sensitive functions, or perform safety sensitive functions within four (4) hours after using alcohol. Finally, no CDL employee required to take a post-accident alcohol test as described in this policy shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

3) Types of Testing

a) Job Applicant Testing

All special risk and safety-sensitive job applicants who are extended a conditional offer of employment may be required to submit to a drug test. A job applicant’s refusal to submit to a drug test, or a job applicant’s positive confirmed drug test, will result in the City’s refusal to hire the applicant.

b) Routine Fitness for Duty Testing

Employees will be required to submit to a drug test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination.

c) Reasonable Suspicion Testing

Employees may be required to submit to a drug test when there is a reasonable suspicion to believe that the employee is using or has used drugs in violation of the City's policy. Reasonable suspicion requires an articulable belief by supervisors based upon reasonable inferences drawn from specific facts. Among other things, reasonable suspicion may be based upon:

- i) Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug; or
- ii) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance; or
- iii) A report of drug use, provided by a reliable and credible source; or
- iv) Evidence that an individual has tampered with a drug test during his or her employment with the current employer; or
- v) Information that an employee has caused, contributed to or been involved in an accident while at work; or
- vi) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.

Special rules apply with regard to reasonable suspicion testing of CDL employees. The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or City official who is trained in such observations as provided for in relevant Department of Transportation regulations. A determination of reasonable suspicion must be based upon 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. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test, shall not conduct the alcohol test of the employee. With respect to alcohol testing of employees holding commercial drivers' licenses, the observations required under this section must be made during, just preceding, or just after the period of the work day that the employee is required to be in compliance with this policy. An employee holding a commercial driver's license may be required to undergo reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee is to perform safety-sensitive functions. The City shall make all reasonable efforts to administer an alcohol test to employees holding a commercial driver's license within two (2) hours following the determination of reasonable suspicion, and in no event will an alcohol test under this section be conducted beyond eight (8) hours of the determination of the reasonable suspicion. If the alcohol test is not administered within two (2) hours of the above determination, a record stating why the alcohol test was not administered within this time frame must be prepared and maintained. With respect to alcohol or controlled substances reasonable suspicion

testing of commercial driver's license holders, a written record shall be made of the observations leading to the test, signed by the supervisor who made the observations, within twenty-four (24) hours of the observed behavior or before the results of the test are released, whichever is earlier and shall be kept confidential and retained by the City.

d) Post-Accident Testing

The City may require substance abuse testing for **any special risk and safety-sensitive employee** involved in an accident while on duty, whether on or off the City's premises in a City vehicle or while operating City owned or rented equipment in accordance with the City's vehicle use policy.

If a CDL employee has a vehicular accident while operating a commercial vehicle, that employee must be tested for alcohol and controlled substances, as soon as is practicable, if the accident results in the loss of human life, or if the driver receives a citation under state or local law for a moving traffic violation arising from the accident. The City shall make all reasonable efforts to administer an alcohol test to employees holding a commercial driver's license within two (2) hours following the accident, and in no event will an alcohol test under this section be conducted beyond eight (8) hours of the accident. If the alcohol test is not administered within two (2) hours of the above determination, a record stating why the alcohol test was not administered within this time frame must be prepared and maintained. Additionally, in no event will a controlled substances test under this section be administered more than thirty-two (32) hours following an accident. If a controlled substance test is not administered within thirty-two (32) hours following an accident, a record stating why the controlled substance test was not administered within this time frame will be prepared and maintained.

All drivers who are subject to post-accident drug testing shall remain readily available for such testing unless medically unable to do so. However, this shall not be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit the driver from leaving the scene of an accident for the period of time necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

e) Random Testing

Employees in special risk or safety sensitive positions may be required to submit to random drug tests.

CDL employees will be subject to random testing on at least a quarterly basis according to the annual rates established by the Federal Motor Carrier Safety Administration. Random testing with respect to CDL employees will be administered just prior to, during, or just after the performance of safety sensitive functions. The selection of employees for random testing shall be made by a scientifically valid method, with each CDL employee having an equal chance of being tested each time selections are made. CDL employees notified of their selection under this section must proceed to the test site immediately; however, if the employee is performing a safety sensitive function, other than driving a commercial motor

vehicle, the employee shall cease to perform the safety sensitive function and proceed to the testing site as soon as possible.

f) Return to Duty Testing

Any covered employee who has engaged in conduct prohibited by this policy, and who has not been terminated from employment, shall, before returning to duty, successfully pass a return to duty drug test. For CDL employees, the results for any return to duty alcohol test must be less than .02 for the employee to resume employment, and the results of a return to duty controlled substance test must be negative in order to resume employment.

g) Follow-up Testing

If the City, in its sole discretion, determines that an employee who has submitted a confirmed positive test result, should not be terminated, the employee may be granted a one-time leave of absence without pay and be required to enroll in and successfully complete a drug and/or alcohol rehabilitation program at his or her own expense, as a condition of returning to work (if a position is available).

If an employee, during the course of his or her employment, receives a mandatory referral to an employee assistance program for drug related problems, or a drug rehabilitation program, upon successful completion of the program, the employee may be required to submit to follow-up drug tests on an unannounced and random basis at least once a year for a two (2) year period after completion of the program.

With respect to CDL employees, upon returning to work (if a position is available), they shall be initially subject to return-to-duty testing as provided below, and shall thereafter be subject to unannounced follow-up testing for alcohol and/or controlled substances as deemed appropriate provided that no less than six (6) follow-up tests must be conducted upon the employee within the first twelve (12) months following the employee's return to duty. Before being allowed to return to work, the employee must be evaluated by a substance abuse professional to determine if the employee has properly adhered to and completed a rehabilitation program. The cost of this evaluation shall be borne by the employee. Follow-up alcohol testing shall be conducted only when the driver is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased to perform safety-sensitive functions.

Any CDL employee who has engaged in a violation of this policy and who has not been terminated from employment as provided herein, shall, before returning to duties involving safety-sensitive functions, undergo a return-to-duty controlled substance or alcohol test. If the violation of this policy involved alcohol, no CDL employee shall return to duties involving safety-sensitive functions, unless the employee undergoes a return-to-duty alcohol test yielding a result indicating an alcohol concentration of less than 0.02. If the violation of this policy involved controlled substances, no employee shall return to duties involving safety-sensitive functions unless the employee undergoes a return-to-duty controlled substances test yielding a verified negative result for controlled substances use.

The City in no way guarantees that any employee, upon returning from the successful completion of a drug/alcohol rehabilitation program, shall have any employment position provided to him/her, or in the event that an employment position is available, that such position will be the same or equivalent to the position previously held by the employee or that the rate of pay for the position will be equal to that previously received by the employee.

4) Consequences for Violation of Policy

a) Refusal to Submit to a Drug Test

Job Applicants who refuse to submit to a drug test will not be employed by the City. If an employee who is injured during the course and scope of his employment refuses to submit to testing under this policy, the employee automatically forfeits any medical and indemnity benefits it would have otherwise been eligible for under Florida's Workers' Compensation Statute. An employee who refuses to submit to a drug test under this policy, will be removed from their safety sensitive duties and may be either discharged or otherwise disciplined. Individuals who refuse to submit to testing will be asked to sign a Refusal to Submit Form.

b) Confirmed Positive Drug Test

An employee who submits a confirmed positive drug test result will be removed from safety sensitive duties and may be disciplined, up to and including discharge at the sole discretion of the City. If the City, in its sole discretion, does not discharge the employee, the employee will be required to enroll in and complete an approved drug and/or alcohol rehabilitation program as a condition of returning to work. The employee will also be subject to return to duty and follow up testing as set forth in this policy.

An employee who submits an alcohol test result of .04 or higher is considered to have submitted a positive test result. Employees with an alcohol test result of 0.04 or higher must be removed from performing safety-sensitive functions. Employees with an alcohol test result of 0.02-0.039, must temporarily be removed from performing safety-sensitive functions, for a period not less than twenty-four (24) hours and until such time as a return to duty test confirms a level of .000. Employees with an alcohol test result of .002-.019 must be temporarily removed from performing safety sensitive functions, until such time as a return to duty test confirms a level of .000.

5) Drugs to be Tested

Only those drugs indicated by an "" are tested for in DOT drug testing of CDL employees.*

*ALCOHOL: (including a distilled spirit, wine, a malt beverage or an intoxicating liquor)

*AMPHETAMINES: (Obetrol, Biphphetamine, Desoxyn, Dexedrine, Didrex, Lonamine, Fastin)

*CANNABINOID: (Marijuana, THC, Pot)

*COCAINE

*PHENCYCLIDINE (PCP)

METHAQUALONE

*OPIATES: (Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine Expectorant, Dilaudid (Hysdromophone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tuss-Organidin, etc.)

BARBITURATES: (Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butabital, Phreninlin, Triad, etc.)

BENZODIAZEPINES: (Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Halcion, Paxipam, Restoril, Centrax)

METHADONE

PROPOXYPHENE: (Darvocet, Darvon N, Dolene, etc.)

METABOLITE of any of the substances listed above.

6) Common Medications which may Alter or Affect a Drug Test

The following list includes the most common medications, by brand name or common name, as well as by chemical name, which may alter or affect a drug test:

ALCOHOL: All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick's Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof).

AMPHETAMINES: Obetrol, Biphedamine, Desoxyn, Dexedrine, Diddrex, Lonamine, Fastin.

CANNABINOID: Marijuana, THC, Pot

COCAINE: Cocaine HCl topical solution (Roxanne)

PHENCYCLIDINE: Not legal by prescription.

METHAQUALONE: Not legal by prescription.

OPIATES: Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-organidin, etc.

BARBITURATES: Phenobarbital, Tuinal, Amytal, Nambutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butabital, Phrenilin, Triad, etc.

BENZODIAZEPHINES: Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Halcion, Paxipam, Restoril, Centrax

METHADONE: Dolphine.

PROPOXYPHENE: Darvocet, Darvon N, Dolene, etc.

7) Specimen Collection and Testing Procedures

The City is committed to following strict specimen collection and laboratory testing procedures to ensure the quality, integrity and authenticity of the specimen. All testing and collection procedures will be administered in accordance with applicable state and federal laws. Employees and job applicants have a right to consult with the MRO for technical information regarding prescription and nonprescription medications. Further, employees and job applicants will be allowed to confidentially report the use of prescription or nonprescription medications to the MRO on forms provided.

Collection site security and specimen collection are the responsibility of the collection site and its personnel. The City assumes no responsibility for specimen collection or transmittal errors incurred by the collection site, the laboratory, or their respective staffs.

8) Challenges to Test Results

An employee or job applicant may challenge a positive test result through an administrative challenge or resort to an applicable court. When an employee or applicant undertakes a challenge to the results of a test it shall be the employee's or applicant's responsibility to notify the laboratory, and the sample shall be retained by the laboratory until the case is resolved. Applicants and employees are responsible for notifying the laboratory of any administrative or civil actions brought pursuant to Florida's Workers' Compensation Act.

Within five (5) working days after receiving notice of a positive confirmed test result, an employee or job applicant may contest or explain the result to the MRO. If the employee or job applicant's explanation or challenge is unsatisfactory to the MRO, the MRO shall report a positive test result back to the City.

Within five (5) working days after receipt of a positive confirmed test result from the MRO, the City shall inform an employee or job applicant in writing of such positive test result, the consequences of such results, and the options available to the employee or job applicant. Within five (5) working days after receiving notice of a positive confirmed test result, the employee or job applicant may submit information to the City explaining or contesting the test result, and explaining why the result does not constitute a violation of the employer's policy. If the employee or job applicant's explanation or challenge is unsatisfactory, the City will provide the employee or job applicant with a written response, along with the report of the positive result. All such documentation will be kept confidential.

If a CDL employee who is tested for drugs under this policy is notified of a confirmed positive drug test results he or she shall have seventy-two (72) hours in which to request a split specimen test. If the employee makes a timely request, the MRO shall, in writing, direct the laboratory to provide the split specimen to another certified laboratory for analysis. The cost of this additional laboratory analysis will be borne by the employee. If the analysis of the split specimen fails to reconfirm the presence of the drugs or drug metabolites found in the primary specimen, the MRO shall cancel the test and report the cancellation and the reasons for it to the City and to the employee. If the analysis of the split specimen is reconfirmed by the second laboratory for the presence of the drug(s) or drug metabolites, the MRO shall notify the City and the employee of the results of the test. If an employee does not contact the MRO within seventy-two (72) hours, as provided above, the employee may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the employee from timely contacting the MRO. If the MRO concludes that there is a legitimate explanation for the employee's failure to contact the MRO within seventy-two (72) hours, the MRO shall direct that the reanalysis of the primary specimen or analysis of the split specimen, as applicable, be performed. When the City uses the split sample method of collection, the employee may not request a reanalysis of the primary specimen.

Employees covered by the collective bargaining agreements between the City and the United Brotherhood of Carpenters and Joiners, Local 2120, International Association of Firefighters, Local 2836, or Coastal Florida Police Benevolent Association are covered by this policy and should consult the collective bargaining agreement for provisions related to and/or different from this policy.

9) Confidentiality/Employee Safeguards

All information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced will be treated in a confidential manner unless otherwise required by law.

10) Right to Search

The City has the right to search lockers, handbags, lunch boxes, work spaces, vehicles or other containers on City premises in the furtherance of this policy and as permitted by applicable law. Failure to cooperate with such a search is grounds for discipline, up to and including discharge.

11) Commitment to Educating the Workforce Regarding Substance Abuse

The City believes that education and understanding can be powerful weapons in the fight against drugs. The following list contains a sampling of the names, addresses and telephone numbers of employee assistance programs and local drug rehabilitation programs available near our community:

Horizon Health Employee Assistance Program (EAP)
Phone: (800) 955-6422

Or

Sutton Place Behavioral Health
(904) 225-8280
463142 State Road 200
Yulee, FL 32097

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EMPLOYEE ACKNOWLEDGEMENT FORM

In a commitment to safeguard the health of our employees and to provide a safe working environment for everyone, we have established a Drug Free Workplace Policy for the City of Fernandina Beach. This policy complies with the Drug Free Workplace Program Requirements of Chapter 440, Florida Statutes, applicable federal and Florida Department of Transportation and Federal Motor Carrier Safety Administration regulations, as well as other applicable federal and state laws.

I hereby acknowledge that I have received and read a copy of the City's *Drug-free Workplace Policy*. I also understand that I must abide by the policy as a condition of employment, and that I should consult the Human Resources Department regarding any questions not answered.

EMPLOYEE'S NAME (printed)

EMPLOYEE'S SIGNATURE:

DATE