



Board of City Commissioners

Agenda Documentation

MEETING DATE: December 4, 2012
PREPARATION DATE: November 30, 2012
SUBMITTING DEPARTMENT: Human Resources
DEPARTMENT DIRECTOR: Kevin Wilson, CBI
PRESENTER: Kevin Wilson, CBI
SUBJECT: Comprehensive Drug-Free Workplace Program

STATEMENT/PURPOSE:

To consider adopting a Comprehensive Drug-Free Workplace Program.

BACKGROUND/ALTERNATIVES:

A Comprehensive Drug-Free Workplace Program includes policy, supervisor training, employee education, employee assistance and drug testing. Current Mandan Municipal Code does not provide for, as a condition of employment, requirements to participate in pre-employment, pre-duty, periodic, random, post-accident, reasonable suspicion, return-to-duty and follow-up testing upon selection or request of management. There are no established post-accident criteria.

The City of Mandan Safety Committee in conjunction to qualifying for a North Dakota Workforce Safety & Insurance (WSI) "Drug-Free Workplace" discount reviewed current practices and found employees in the CDL pool are subject to random and pre-employment drug testing. Police, fire and public works utilize pre-employment drug testing. No department (except CDL pool) utilizes random drug testing. Departments have utilized post-accident testing, reasonable suspicion and return to duty testing. There are no established post-accident criteria for testing. Supervisor and employee training have been conducted in the past.

The proposed Policy was developed by utilizing the Department Of Labor elaws Drug-Free Workplace Policy Builder.

ATTACHMENTS:

- Drug-Free & Alcohol Workplace Policy
- Criteria for Post-Accident Testing

FISCAL IMPACT:

None

STAFF IMPACT:

LEGAL REVIEW:

Submitted to Malcolm Brown, City Attorney.

RECOMMENDATION:

To approve the Comprehensive Drug-Free Workplace Program.

SUGGESTED MOTION:

Move to approve the Comprehensive Drug-Free Workplace Program.

Drug-Free & Alcohol Workplace Policy

Purpose and Goal

City of Mandan is committed to protecting the safety, health and wellbeing of all employees and other individuals in our workplace. We recognize that alcohol abuse and drug use pose a significant threat to our goals. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment.

City of Mandan encourages employees to voluntarily seek help with drug and alcohol problems.

Scope of Policy

Any individual who conducts business for the City of Mandan, is applying for a position or is conducting business on the City of Mandan's property is covered by our drug-free and alcohol workplace policy. Our policy includes, but is not limited to full-time employees, part-time employees, volunteers, elected and appointed officials. For the purpose of this policy, the words Drug Free and Alcohol are synonymous.

Applicability

Our drug-free workplace policy is intended to apply whenever anyone is representing or conducting business for the City of Mandan. Therefore, this policy applies during all working hours, whenever conducting business or representing the City of Mandan, while on call, paid standby, while on City of Mandan property and at City of Mandan-sponsored events.

Prohibited Behavior

It is a violation of our drug-free workplace policy to use, possess, sell, trade, and/or offer for sale alcohol, illegal drugs, synthetic drugs or intoxicants.

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 (e.g., call in sick, use leave, request change of duty, notify supervisor) to avoid unsafe workplace practices.

The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of our drug-free workplace policy to intentionally misuse and/or abuse prescription medications. Appropriate disciplinary action will be taken if job performance deterioration and/or other accidents occur.

Notification of Convictions

Any employee who is convicted of a criminal drug or alcohol violation must notify the City of Mandan in writing within five calendar days of the conviction. The City of Mandan will take appropriate action within 30 days of notification. Federal contracting agencies will be notified when appropriate.

Searches

Entering the City of Mandan's property constitutes consent to searches and inspections. If an individual is suspected of violating the drug-free workplace policy, he or she may be asked to submit to a search or inspection at any time. Searches can be conducted of pockets and clothing, lockers, wallets, purses, briefcases and lunchboxes, desks and work stations and vehicles and equipment.

Drug Testing

To ensure the accuracy and fairness of our testing program, all testing will be conducted according to Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines where applicable and will include a screening test; a confirmation test; the opportunity for a split sample; review by a Medical Review Officer, including the opportunity for employees who test positive to provide a legitimate medical explanation, such as a physician's prescription, for the positive result; and a documented chain of custody.

All drug-testing information will be maintained in separate confidential records.

Each employee, as a condition of employment, will be required to participate in pre-employment, pre-duty, periodic, random, post-accident, reasonable suspicion, return-to-duty and follow-up testing upon selection or request of management.

The substances that will be tested for are: Amphetamines, Cannabinoids (THC), Cocaine, Opiates, Phencyclidine (PCP), Alcohol, Barbiturates, Benzodiazepines, Methaqualone, Methadone and Propoxyphene.

Testing for the presence of alcohol will be conducted by analysis of breath.

Testing for the presence of the metabolites of drugs will be conducted by the analysis of urine.

Any employee who tests positive will be immediately removed from duty, suspended without pay for a period of 30 days, referred to a substance abuse professional for assessment and recommendations, required to successfully complete recommended rehabilitation including continuing care, required to pass a Return-to-Duty test and sign a Return-to-Work Agreement, subject to ongoing, unannounced, follow-up testing for a period of five years and terminated immediately if he/she tests positive a second time or violates the Return-to-Work Agreement.

An employee will be subject to the same consequences of a positive test if he/she refuses the screening or the test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter, will not sign the required forms or refuses to cooperate in the testing process in such a way that prevents completion of the test.

Consequences

One of the goals of our drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates this policy, the consequences are serious.

In the case of applicants, if he or she violates the drug-free workplace policy, the offer of employment can be withdrawn. The applicant may reapply after eighteen months and must successfully pass a pre-employment drug test. Probationary employees will be terminated for violation of policy.

If an employee violates the policy, he or she will be subject to progressive disciplinary action and may be required to enter rehabilitation. An employee required to enter rehabilitation and fails to successfully complete rehabilitation or repeatedly violates this policy will be terminated from employment. Nothing in this policy prohibits the employee from being disciplined or terminated for other violations and/or performance problems.

In determining what action to take the city will consider the nature of the charge, circumstances of the arrest, the employee's record with the city, current job assignment and the impact the arrest may have on other employees, the public and the city's general reputation.

Employee's with job descriptions requiring licensure to operate equipment, trucks and vehicles are subject to a 30 day unpaid suspension for violation of policy. Employees who lose their CDL license are subject to termination.

Assistance

City of Mandan recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. To support our employees, our drug-free workplace policy:

Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem.

Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.

Offers all employees and their family member's assistance with alcohol and drug problems through the Employee Assistance Program (EAP).

Allows the use of accrued sick/leave while seeking treatment for alcohol and other drug problems.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

Confidentiality

All information received by the City of Mandan through the drug-free workplace program is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

Shared Responsibility

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.

All employees are required to not report to work or be subject to duty while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or other drugs.

In addition, employees are encouraged to:

Be concerned about working in a safe environment.

Support fellow workers in seeking help.

Use the Employee Assistance Program.

Report dangerous behavior to their supervisor.

It is the supervisor's responsibility to:

Inform employees of the drug-free workplace policy.

Observe employee performance.

Investigate reports of dangerous practices.

Document negative changes and problems in performance.

Counsel employees as to expected performance improvement.

Refer employees to the Employee Assistance Program.

Clearly state consequences of policy violations.

Communication

Communicating our drug-free workplace policy to both supervisors and employees is critical to our success. To ensure all employees are aware of their role in supporting our drug-free workplace program:

All employees will receive a written copy of the policy.

The policy will be reviewed in orientation sessions with new employees.

The policy and assistance programs will be reviewed at safety meetings.

Posters and brochures will be available at all locations.

Employee education about the dangers of alcohol and drug use and the availability of help will be provided to all employees.

Every supervisor will receive training to help him/her recognize and manage employees with alcohol and other drug problems.

Criteria for Post-Accident Testing

A driver or equipment operator must have a post-accident drug and alcohol test when:

Involved in an on the job accident and safety sensitive functions; and,

There is a fatality or injury that requires treatment away from the scene and employee receives a citation under state or local law; or

A vehicle is damaged so that it cannot be legally driven or needs to be towed and the driver receives a citation under state or local law (testing is not required if only lamps are broken),

When observed using alcohol or illegal drugs,

If allowed to return to duty after violation of drug or alcohol policies,

There is reasonable suspicion,

Identified by a substance abuse professional with drug or alcohol abuse.

An employee who refuses to consent and submit to a test or obstructs the testing process will be subject to disciplinary action up to and including dismissal. The employee may not refuse or defer the test. A refusal will be treated as a positive test.