

# **CITY OF FLAGSTAFF**

## **City Employee Directives**

**No. 4-013**

**Title: ALCOHOL AND CONTROLLED SUBSTANCE TESTING  
POLICY FOR NON-CDL EMPLOYEES**

**Effective: February 10, 1997**

**Revision: October 27, 2016**

**Contact: Office of Human Resources (779-7698)**

### **A. PURPOSE**

The purpose of this policy is to deter and detect the use of alcohol and illegal use of controlled substances, to enforce the City’s drug-free workplace policy, to ensure a safe working environment for employees, and to ensure that the employees who serve the community are drug and alcohol free. The deterrence and detection of alcohol and drug use are particularly important for public safety employees because they are routinely exposed to drugs and/or firearms, operate large vehicles, and work under hazardous conditions. The impairment of public safety employees can be particularly dangerous because these employees are responsible for ensuring the public’s safety and the safety of their co-workers.

### **B. SCOPE**

This policy covers all employees that are not subject to testing under the federal regulations for drug and alcohol testing for Commercial Drivers License (CDL).

### **C. EMPLOYEES WHO WILL BE SUBJECT TO TESTING**

1. Tenured, tenure-eligible, exempt, or temporary employees while on duty performing their regular job duties.
2. Commissioned public safety employees (police officers, evidence technicians, and firefighters including aircraft rescue staff who are members of the Public Safety Personnel Retirement System) will be tested annually, meaning once per fiscal year, because they are routinely exposed to drugs and firearms, operate large vehicles,

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work under hazardous conditions, and because their performance may be adversely impacted by any impairment as a result of drug or alcohol use. Such impairment may result in an inability to protect the public and/or the safety of coworkers. (Safety sensitive employee)

3. Any person required to have an American Red Cross lifeguard certification as a job qualification or assigned to work in an aquatics position is subject to pre-employment drug testing within one business day of acceptance of the job offer or assignment as a condition of employment, because lifeguards are assigned duties to monitor public swimming pools, rescue those in danger of drowning, perform cardiopulmonary resuscitation, and because their performance may be adversely impacted by any impairment as a result of drug or alcohol use. Such impairment may result in an inability to protect the public and/or the safety of coworkers. (Safety sensitive employee)

**D. SUBSTANCES FOR WHICH EMPLOYEES WILL BE TESTED**

1. Controlled substances for purposes of this Policy mean: cocaine, marijuana, opiates, amphetamines, and phencyclidine (PCP).
2. Blood Alcohol Concentration (BAC) for reasonable suspicion and post accident circumstances

**E. PROHIBITIONS**

1. No employee shall report for duty, or remain on duty, when doing so requires the operation of a City vehicle or equipment functions while having a Blood Alcohol Concentration (BAC) of 0.02 or greater.
2. No employee shall be on duty while possessing or consuming alcohol, and no employee shall report to duty within four (4) hours after consuming alcohol.
3. No employee shall be on duty while possessing, using, or while impaired by any controlled substance. In addition, no safety sensitive employee shall be at work with any trace of a controlled substance in his/her system.
4. No employee required to take a post-accident alcohol test shall consume alcohol for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
5. No employee shall use medicine containing alcohol or controlled substances while on duty operating a vehicle or equipment unless the medicine is prescribed and taken pursuant to the instructions of a licensed health care provider and either: (i) the employee has been advised by such licensed health care provider that the medicine will not adversely effect the employee’s ability for safe operation, or (ii) the employee has no reason to know (including label warnings, etc.) that such medicine may adversely effect

his/her ability for safe operation.

**E. CIRCUMSTANCES UNDER WHICH ALCOHOL AND CONTROLLED  
SUBSTANCE TESTING WILL BE CONDUCTED**

1. **Reasonable suspicion** – An employee will be tested when a supervisor has reasonable, articulable and individualized suspicion that an employee is under the influence of a controlled substances or alcohol while on duty, at any time when reporting to work or during the employee’s shift. Possible grounds upon which a supervisor’s reasonable suspicion may be based include factors such as, but not limited to, slurred speech, red eyes, dilated pupils, incoherence, unsteadiness, smell of alcohol or marijuana emanating from the employee’s body, inability to carry on a rational conversation, increased carelessness, erratic behavior, inability to perform the job, or other unexplained behavioral changes, characteristics, or events. There is a presumption that any employee who has a valid state issued registry identification card authorizing the use of marijuana for medical purposes is using a controlled substance; the employee has the burden of rebutting this presumption. Any factors upon which a supervisor relies in determining reasonable suspicion exists to test an employee shall be clearly set forth in the Reasonable Suspicion Observation Form, Appendix IV. In such circumstances, a trained supervisor may, but is not required to, seek the opinion of at least one additional trained supervisor, if practical, prior to ordering the employee to testing. After a reasonable suspicion controlled substance and blood alcohol concentration (BAC) tests, the employee will be sent home with pay, pending the outcome of the tests.
2. **Post-accident** - After every accident in which an employee is involved while operating a City vehicle or equipment, or, otherwise while on duty, which accident (i) results in a fatality, or (ii) in connection with which the employee receives a moving traffic citation, or (iii) which results in injury to any person that requires immediate medical attention away from the scene of the accident, or (iv) in which one or more motor vehicles incur disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle, testing shall be done as soon as possible following the accident, but in no event more than eight (8) hours following the accident. The test shall include a controlled substance and blood alcohol concentration (BAC). A driver/operator who cannot provide a breath or urine sample within such time period as a result of serious injury sustained in such an accident must subsequently authorize a release to the Workplace Compliance Officer of such medical records that would indicate BAC or the presence of controlled substances in his/her system.
3. **Public Safety Employees** - Commissioned Police Officers and Evidence Technicians because they routinely handle or come into contact with controlled substances and/or dangerous or deadly weapons will be tested annually, which shall mean once per fiscal year. Commissioned Police Officers and Evidence Technicians will be tested randomly within 90 days before or after their anniversary date. Commissioned Fire personnel will be tested once a year within a three-week period. The time for testing shall be

established annually by the Fire Chief or designee. Commissioned Fire personnel shall have thirty (30) days advance notice of the three-week testing period. Any public safety employees unable to test during the designated time period because of illness, vacation, or other authorized absence on the testing date must take the test during the first shift upon return to duty.

4. Time spent traveling to and taking tests will be recorded as “time worked.” The City will pay for all testing.

#### **G. CONSEQUENCES OF TESTING REFUSAL**

1. Any employee refusing testing required hereunder will be terminated.
2. Behavior that constitutes refusal. An employee will be deemed to have refused testing when he/she:
  - a. Fails to provide adequate breath for testing without a valid medical explanation.
  - b. Fails to provide adequate urine for controlled substances testing without a valid medical explanation.
  - c. Engages in conduct that clearly obstructs the testing process, including, but not limited to, tampering with any sample.
  - d. Fails to arrive at the testing site for a pre-scheduled testing or fails to submit to testing within thirty (30) minutes of being notified to report for any post-accident or reasonable suspicion testing, absent adequate documentation of a medical or similar emergency that prevented submission to testing.

#### **H. CONSEQUENCES OF A POSITIVE BLOOD ALCOHOL CONCENTRATION (BAC)**

1. **First Offense** - Test results of 0.02 to 0.04 will result in suspension without pay for one day. For employees whose work week is measured in forty-hour increments, one day of suspension shall mean one single, continuous eight (8) hour shift. For those employees whose work week is measured in fifty-six hour increments, one day of suspension shall mean one single, continuous 11.2 hour shift. Suspensions for a positive test result shall commence on the day on which the positive result is reported to the Compliance Officer or, alternatively, on the employee’s next regularly scheduled day of work, whichever occurs sooner. Test results of 0.05 to 0.07 will require mandatory referral to a certified Substance Abuse Professional, twenty-four (24) hours suspension without pay, measured according to the appropriate shift increment for the subject employee, and may result in termination. Test results of 0.08 or greater will result in immediate termination since this blood alcohol content level is sufficient, pursuant to Arizona Revised Statutes, to presumptively establish that one is “under the

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influence.”

2. **Second Offense** – Within three (3) years of the first offense, an employee’s test results of 0.02 to 0.04 will result in an immediate three (3) day suspension without pay, starting from the time of the positive test, and will require mandatory referral to a certified Substance Abuse Professional. Test results of 0.05 to 0.07 will require mandatory referral to a certified Substance Abuse Professional, an immediate four (4) day suspension without pay, and may result in termination. Test results of 0.08 or greater will result in immediate termination since this blood alcohol content level is sufficient, pursuant to Arizona Revised Statutes, to presumptively establish that one is “under the influence.”
3. **Third Offense** – Any offense committed within three (3) years of the first offense in which test results of 0.02 or greater will result in immediate termination.

**I. CONSEQUENCES OF A POSITIVE CONTROLLED SUBSTANCE TEST**

Any confirmed positive controlled substance test will result in termination, unless the employee has availed him/herself of the prior reporting opportunity described in this Policy.

Nothing in this Policy shall preclude an employee’s right to appeal any adverse determination hereunder in accordance with the City’s personnel regulations.

By\_

\_\_\_\_\_  
Josh Copley, City Manager

Dated: \_\_\_\_\_

The following appendices outline the detailed implementation guidelines for this Policy.

Appendix I - Responsibilities of the parties (Human Resources Division, Employees, Supervisors)

Appendix II - Testing/collection sites  
Confidentiality of testing results

Appendix III - Testing methods and collection procedures

Appendix IV - Reasonable Suspicion Observation Form

**Appendix I  
RESPONSIBILITIES OF THE PARTIES**

**RESPONSIBILITIES OF INVOLVED PARTIES**

**1. Human Resources Division**

- A. Human Resources will be responsible for coordinating training associated with this Policy.
- B. The City’s Human Resources Director will serve as the Workplace Compliance Officer for purposes of this Policy.

**2. Employees**

- A. Employees who notify their supervisor, Department Head, or Human Resources that they have a drug or alcohol problem, or believe that they may test positive for drugs or alcohol prior to being directed to submit to a test prescribed under this Policy, will be provided assistance through the City’s Employee Assistance Program and/or any other means of rehabilitation, so long as such notification is made *prior* to the employee’s submission to a drug or alcohol test as required under this Policy. Any employee who avails him/herself of this prior reporting opportunity shall not be terminated for a positive test result.
- B. An employee having grounds to reasonably suspect a co-worker of drug or alcohol use or impairment while on duty shall bring such suspicion to the immediate attention of a supervisor. Failure to do so may result in disciplinary action.
- C. Employees must cooperate with test requests and release of information.
- D. In accordance with the City’s Accident Reporting Policy, employees must immediately notify the police regarding all motor vehicle accidents in which they are involved while driving a City vehicle. Employees must immediately notify their supervisor of any equipment accidents or on-the-job employee injury.
- E. Any employee involved in a motor vehicle accident while driving a City vehicle shall notify a supervisor as soon as practical following such accident. A driver of a City vehicle who leaves the scene of an accident before notifying a supervisor (or, when no phone or radio is available to the driver at the scene, who unduly

delays such notification) may be deemed to have refused to submit to testing. This does not mean that necessary treatment for injured people should be delayed or that a driver cannot leave the scene for the period necessary to obtain necessary assistance.

- F. Employees may not drive themselves to post-accident or reasonable suspicion testing. An employee of whom post-accident or reasonable suspicion testing is required will be driven by a supervisor, or designee.
- G. Any employee found to have a BAC of 0.02 or greater will not be allowed to drive himself/herself home from the testing site. The supervisor may, at his/her discretion, provide for transportation from the testing site, or may require the employee to arrange for such transportation.

### **3. Supervisors**

- A. Any notification by an employee to his/her supervisor that he/she has a drug or alcohol problem prior to being directed to submit to a test will be provided assistance through the Employee Assistance Program and/or any other means of rehabilitation. Similarly, any employee who believes he or she may test positive in a test given pursuant to this Policy will likewise be provided assistance through the Employee Assistance Program and/or any other means of rehabilitation, so long as the employee gives notification *prior to* the administration of the test. Any employee who avails himself/herself of this prior reporting opportunity shall not be terminated for a positive test result. Instead, the employee’s immediate supervisor will facilitate assistance through Human Resources.
- B. Every supervisor (any employee who would normally evaluate other employees) is required to have a minimum of one (1) hour of training in recognizing drug and alcohol use within twelve (12) months of the adoption of this Policy, or of his/her employment by the City, if later.
- C. In order to require testing of an employee for reasonable suspicion of drug or alcohol use, a supervisor must have a reasonable, articulable and individualized suspicion that such employee is under the influence of controlled substances or alcohol while on duty. In such circumstances, a trained supervisor should, but is not required to, seek the opinion of at least one additional trained supervisor, if practical, prior to ordering the employee to testing. If a supervisor has not yet received the training in recognizing drug and alcohol use required by Paragraph

A, he/she *must* seek and obtain the opinion of another trained supervisor before requiring testing hereunder.

1. Grounds for reasonable suspicion include, but are not limited to, such factors as slurred speech, red eyes, dilated pupils, incoherence, unsteadiness, smell of alcohol or marijuana emanating from the employee’s body, inability to carry on a rational conversation, increased carelessness, erratic behavior, inability to perform the job, or other unexplained behavioral changes, characteristics or events set forth in the Reasonable Suspicion Observation Form attached.
2. If such grounds for reasonable suspicion exist, the supervisor(s) shall document these observations immediately in writing, and, if possible, on the Reasonable Suspicion Observation Form attached. Following such documentation, the supervisor(s) shall notify the appropriate department head or designee that an employee is being sent for testing, if possible before the employee is sent for testing, or otherwise as soon as practicable. The supervisor shall then direct the employee to the appropriate testing site. A copy of the supervisor’s report(s) shall be forwarded to the Workplace Compliance Officer within twenty-four (24) hours, and will be provided to the employee upon request.

D. Supervisors shall arrange for the transportation of any employee to and from reasonable suspicion and post-accident testing. An employee of whom reasonable suspicion or post-accident testing is required shall be directed to accompany the supervisor, or designee, to the appropriate testing site (listed below) for a urinalysis and/or breath alcohol test. The supervisor shall inform the employee of the following:

1. The testing is part of his/her job responsibilities and that refusal to take the test, cooperate, or sign the release of information will result in termination.
2. The employee will be sent home with pay until results are received by the City.
3. The employee will be sent home without pay for twenty-four (24) from the time of the positive alcohol test. Further disciplinary action will be as per this Policy.

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4. The City will pay for the testing. Time spent going to and taking the test is counted as time worked.
- E. A supervisor shall require post-accident testing of an employee as required in Section F.2 Post-accident of this Policy. A copy of the supervisor’s report shall be forwarded to his/her department head, the Workplace Compliance Officer within twenty-four (24) hours and will be provided to the employee upon request. The supervisor’s report shall not be disclosed to any other party, unless required by law or City policy. Any City employee receiving a copy of the supervisor’s report shall maintain the confidentiality of the contents of that report, unless otherwise required by law.

**APPENDIX II**

**1. TESTING/COLLECTION SITES AND PROCEDURES**

Testing/collection site(s) are as follows:

Concentra Medical Center, Monday through Friday, 8 a.m. to 8 p.m., Saturday and Sunday, 8 a.m. to 4 p.m. Concentra Medical is located at 120 W. Fine Avenue, Flagstaff, AZ 86001.

**Testing procedures are as follows:**

- A. Employees shall tell the technician that this is a non-DOT collection. Commissioned Fire personnel shall inform the technician that a split sample is to be collected. Regardless of which test collection site the employee uses, the specimen will be sent to Southwest Labs for processing.
- B. The chain of custody form and the urine specimen will go to the following lab:

Southwest Lab  
2727 West Baseline Road  
Suite 1  
Tempe, Arizona 85283

The chain of custody form needs the City of Flagstaff account number and address written in the employer section and the employer copy must be mailed to:

(9504N) City of Flagstaff  
ATTN: Work Place Compliance Officer  
211 West Aspen Avenue  
Flagstaff, AZ 86001

- C. Procedures for after-hours are as follows:

Go to Flagstaff Medical Center’s Emergency Room. Register as an outpatient and put the City of Flagstaff as Guarantor. Tell emergency personnel this is for a drug a screen and alcohol testing and you need to go to the Lab. It is in the same building and is open 24 hours a day. Commissioned Fire personnel should advise the technician to collect a split-sample.

**2. CONFIDENTIALITY OF TESTING RESULTS**

Release of controlled substances and alcohol tests will be governed by the following rules:

- A. Testing results shall be placed in the workplace compliance file and will be kept confidential, except as otherwise provided herein. Such results will not be placed in the employee’s 201 file, any department files, or reported to any other agency, except as specifically required by law.
- B. Employees are entitled, upon written request, to obtain copies of any records pertaining to their use of alcohol or controlled substances, including any records pertaining to any testing conducted pursuant to this Policy. Human Resources shall promptly provide such records requested by an employee.
- C. Except as otherwise provided herein, test results and/or records made or maintained hereunder shall be made available to a third party only upon receipt of a signed, written request from the employee to whom they pertain, unless otherwise compelled by law.
- D. The City may disclose test results and/or records made or maintained hereunder to the employee to whom they pertain. Disclosure may also be made to the decision-maker in a lawsuit, grievance, or any other administrative proceeding initiated by or on behalf of such employee, and arising from the results of an alcohol and/or controlled substance test administered under this Policy, or from the City’s determination that the employee engaged in conduct prohibited by this Policy (including, but not limited to seeking unemployment compensation, or engaging in any other proceeding relating to termination or a benefit sought by such employee). In any of these instances, the employee will be treated as having waived his/her right to confidentiality of any records and/or test results by putting such records or result in issue.

**APPENDIX III  
TESTING METHODS AND COLLECTION PROCEDURES**

**TESTING METHODS AND COLLECTION PROCEDURES**

**I. Controlled Substances**

The screening will utilize the Enzyme Immunoassay Test (EMIT). Initial positive drug screens will initiate a confirmation test. A confirmation test for controlled substances means a second analytical procedure to identify the presence of a specific drug or metabolite, which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) is the secondary technique that will be used. Urine samples will be collected and recorded in accordance with procedures outlined in 49 Code of Federal Regulations, Part 40. Urine samples will be processed in accordance with chain of custody procedures within this title.

**A. Reporting and Review of Results**

1. The Medical Review Officer (MRO) shall be a licensed physician (medical doctor or doctor of osteopathy) with knowledge of substance abuse disorders and appropriate training in interpretation and evaluation of drug and alcohol test results in conjunction with a subject’s medical history and other relevant biomedical information.
2. The role of the MRO is to review and interpret confirmed positive test results obtained through the City’s testing program. In carrying out this responsibility, the MRO shall examine alternative medical explanations for any positive test result. This action shall include conducting a medical interview with the individual employee, unless the MRO is unable to make contact with the employee (as described in sections 3a. and 3b. below) and may include review of the individual’s medical history, as well as review of any other relevant biomedical factor(s). The MRO’s review shall include review of the chain of custody to ensure that it is complete and sufficient on its face. The MRO will only report test results in a manner consistent with this Policy. In the event of a confirmed positive test result, no information shall be given to the employer other than the type of substance for which the employee tested positively. No information regarding the amount of that substance (or substances) contained in the employee’s urine shall be given.

3. Prior to making a final decision to verify a positive test result for an individual, the MRO shall give the individual an opportunity to discuss the test result with them. The MRO shall contact the individual directly, on a confidential basis, to determine whether the employee wishes to discuss the test result.

Upon an initial positive test, the employee will be sent home as soon as the City is notified by the MRO. Should the test be later determined negative, the employee will be paid for any work time.

- a. If, after making all reasonable efforts and documenting them the MRO is unable to reach the individual directly, the MRO shall contact a designated City management official who shall direct the individual to contact the MRO as soon as possible. If, after making all reasonable efforts the designated management official (Human Resources Manager or designee) is unable to contact the employee, the City may place the employee on temporary medically-unqualified status or medical leave without pay.
  - b. The MRO may verify a test as positive without having communicated directly with the employee about the test in two circumstances:
    - i. The employee expressly declines the opportunity to discuss the test; or
    - ii. The designated employer representative has successfully made and documented a contact with the employee and instructed the employee to contact the MRO and more than five (5) days have passed since the date the employee was successfully contacted by the designated employer representative.
4. Following verification of a positive test result, the MRO will refer the case to the City’s management official empowered to recommend or take administrative action. The MRO shall only report a positive test result to the City’s Compliance Officer, and/or the Compliance Officer’s designee, by phone. In all instances of a positive result a signed, written notification

must be forwarded within three (3) business days of completion of the MRO review. The MRO shall report to the City clearly:

- a. That the controlled substances test being reported was detected in accordance with this Policy;
- b. The name of the individual for whom the test results are being reported;
- c. The type of test indicated on the custody and control form (i.e., annual, post-accident, etc.).
- d. The date and location of the test;
- e. The identities of the persons or entities performing the collection, analysis of the specimens and serving as the Medical Review Officer (MRO) for the specific test; and
- f. The verified results of a controlled substance(s) test, either positive or negative, and if positive, the identity of the controlled substance(s) for which the test was verified positive.

2. Alcohol

Blood Alcohol Concentration (BAC) testing will be done by an Evidential Breath Testing Device (EBT) approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA’s Conforming Products List (CPL) of Evidential Breath Measurement Devices. BAC breath testing shall be administered by a Breath Alcohol Technician (BAT), an individual trained in alcohol testing procedures and the operation of an EBT, which meets or exceeds the guidelines outlined in 49 Code of Federal Regulations, Part 40.51 of DOT regulations.

A. Procedures for Screening Tests

1. When the employee enters the alcohol testing location, the BAT will require him/her to provide positive identification (e.g., through use of a photo I.D. card or identification by an employer representative).
2. The BAT shall explain the testing procedure to the employee.

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3. The BAT shall complete Step 1 on the Breath Alcohol Testing Form. The employee shall then complete Step 2 on the form, signing the certification. Refusal by the employee to sign this certification shall be regarded as a refusal to take the test.
4. An individually sealed mouthpiece shall be opened in view of the employee and BAT and attached to the Evidence Breath Testing (EBT) in accordance with the manufacturer’s instructions.
5. The BAT shall instruct the employee to blow forcefully into the mouthpiece until the Evidential Breath Testing Device (EBT) indicates that an adequate amount of breath has been obtained to enable the BAT to collect a valid sample.
6. In any case in which the result of the screening test is a breath alcohol concentration of less than 0.02, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall sign the certification and fill in the date in Step 4 of the form.
7. If the employee does not sign the certification in Step 4 of the form or does not initial the log book entry for a test, it shall not be considered a refusal to be tested. In this event, the BAT shall note the employee’s failure to sign or initial in the “Remarks” section of the form.
8. If a test result printed by the EBT does not match the displayed result, the Breath Alcohol Technician (BAT) shall note the disparity in the “Remarks” section. Both the employee and the BAT shall initial or sign the notation. In accordance with Department of Transportation 49 Code of Federal Regulations Part 40.79, the test is invalid and the employer and employee shall be so advised.
9. If test results are 0.02 or greater, the BAT shall transmit the results to the employer in a confidential manner, and the employer shall receive and store the information so as to ensure that confidentiality is maintained.
10. If the result of the screening test is an alcohol concentration of 0.02 or greater, an additional Blood Alcohol Concentration test will be performed as a confirmation test as provided in 49 Code of Federal Regulations, Part 40.65.

11. If the confirmation test will be conducted by a different BAT, the BAT who conducts the screening test shall complete and sign the form and log book.
12. All Breath Alcohol Testing shall be conducted in a location which affords visual and audible privacy to the individual being tested sufficient to prevent unauthorized persons from seeing or hearing the results.
13. Unauthorized persons shall not be permitted access to the testing location when the EBT remains unsecured or, in order to prevent such persons from seeing or hearing a testing result, at any time when testing is being conducted.
14. In unusual circumstances (e.g., when it is essential to conduct a test outdoors at the scene of an accident), a test may be conducted at a location that does not fully meet the requirements of Paragraph A of this section. In such a case, the employer or BAT shall provide visual and aural privacy to the employee to the greatest extent practicable.
15. Under the following unusual circumstances, a blood test for blood alcohol levels may be used: (1) when an evidential breath testing device is not available; or (2) upon the determination of a physician that a medical condition has, or with a high degree of probability could have, precluded the employee from having an adequate amount of breath to provide a testable breath sample. As it relates to this section, the term “medical condition” includes, for instance, injuries sustained in an accident. In the event a physician determines blood testing is appropriate, he or she shall provide the City with a written statement of the basis for that conclusion.

**B. Confirmation Test Procedures**

- a. The BAT shall instruct the employee not to eat, drink, put any object or substance in their mouth, and to the extent possible, not belch or vomit during a waiting period before the confirmation test. This time period begins with the completion of the screening test and shall not be less than fifteen (15) minutes. The confirmation test shall be conducted within twenty (20) minutes of the completion of the screening test. The BAT shall explain to the employee the reason for this requirement (i.e., to prevent any accumulation of mouth alcohol from leading to an artificially high reading) and the fact that it is for the employee’s benefit. The BAT shall also explain that the test will be conducted at the end of the waiting period, even if the

employee has disregarded the instruction. If the BAT becomes aware that the employee has not complied with this instruction, the BAT shall so note in the “Remarks” section of the form.

- b. Before the confirmation test is administered for each employee, the BAT shall ensure that the EBT registers 0.00 on the air blank.
- c. Testing as outlined under “Procedures for Screening Tests,” as defined in this Appendix, will be conducted in the event that the screening and confirmation test results are not identical. In the event a confirmation test is required, the result of that test is deemed to be the final result upon which any action under operating administration rules shall be based.
- d. Following the completion of the test, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall sign the certification and fill in the date in Step 4 of the form.

**APPENDIX IV**

**REASONABLE SUSPICION OBSERVATION FORM  
(STRICTLY CONFIDENTIAL)**

EMPLOYEE NAME:

DATE/TIME OF INCIDENT:

\_\_\_\_\_  
SUPERVISOR #1 NAME:

\_\_\_\_\_  
SUPERVISOR #2 NAME:

This checklist is to be completed when an incident has occurred which provides reasonable suspicion that an employee may be under the influence of a prohibited drug substance or alcohol. Supervisor(s) note all pertinent behavior and physical signs or symptoms which lead you to reasonably believe that the employee has recently used or is under the influence of a prohibited substance and/or alcohol. Mark each applicable item on this form and any additional facts or circumstances which you have noted.

**A. NATURE OF THE INCIDENT/CAUSE FOR SUSPICION**

- 1. Observed/reported possession or use of a prohibited substance
- 2. Apparent drug or alcohol intoxication
- 3. Observed abnormal or erratic behavior
- 4. Arrest or conviction for drug-related offense
- 5. Evidence of tampering on a previous drug test
- 6. Other (e.g., flagrant violation of safety regulations, serious misconduct, fighting or argumentative/abusive language, refusal of supervisor instruction, unauthorized absence on the job) (please specify)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**B. UNUSUAL BEHAVIOR**

- 1. Verbal abusiveness
  - 2. Physical abusiveness
  
  - 3. Extreme aggressiveness or agitation
  - 4. Withdrawal, depression, mood changes, or unresponsiveness
  - 5. Inappropriate verbal response to questioning or instructions
  - 6. Other erratic or inappropriate behavior (e.g., hallucinations, disorientation, excessive euphoria, confusion) (please specify)
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**REASONABLE SUSPICION OBSERVATION FORM  
(STRICTLY CONFIDENTIAL)**

**C. PHYSICAL SIGNS OR SYMPTOMS**

- 1. Possessing, dispensing, or using controlled substances
- 2. Slurred or incoherent speech
- 3. Unsteady gait or other loss of physical control; poor coordination
- 4. Dilated or constricted pupils or unusual eye movement
- 5. Bloodshot or water eyes
- 6. Extreme fatigue or sleeping on the job
- 7. Excessive sweating or clamminess to the skin
- 8. Flushed or very pale face
- 9. Highly excited or nervous
- 10. Nausea or vomiting
- 11. Odor of alcohol
- 12. Odor of marijuana
- 13. Dry mouth (frequent swallowing/lip wetting)
- 14. Dizziness or fainting
- 15. Shaking hands or body tremors/twitching
- 16. Irregular or difficult breathing
- 17. Runny sores or sores around nostrils
- 18. Inappropriate wearing of sunglasses
- 19. Puncture marks or “tracks”

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- 20. Possession of a valid state registry i.d. card for medical marijuana
- Other (please specify)

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**D. WRITTEN SUMMARY**

Please summarize the facts and circumstances of the incident, employee response, supervisor actions, and any other pertinent information not previously noted. Please note the date, times, and location of reasonable cause testing or note if employee refused test. Attach additional sheets as needed.

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## **1-10-013 NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY**

The City of Flagstaff is committed to a work environment in which all individuals are treated with respect and dignity. The purpose of this policy is to establish expectations for employee conduct within the workplace and to provide a complaint process for employees who feel as if they have been discriminated against or harassed within the workplace by anyone.

Each employee of the City is expected to refrain from discrimination, harassment and retaliation within the workplace, and shall treat all persons (including but not limited to co-workers, third parties and the public) with respect and dignity. Any individual employee who violates these guidelines and engages in prohibited conduct will be subject to appropriate disciplinary action up to and including termination.

It is the policy of City of Flagstaff to ensure equal employment opportunity without discrimination or harassment on the basis of race, color, religion, sex, pregnancy, national origin, age, disability, genetic information, sexual orientation, gender identity, veteran's status or any other characteristics protected by law. The City prohibits and will not tolerate any such discrimination or harassment.

### **A. DEFINITIONS**

1. Discrimination means to exclude individuals from an opportunity or participation in any activity because of race, color, religion, sex, pregnancy, national origin, age, disability, genetic information, sexual orientation, gender identity, veteran's status, familial status, caregiving responsibilities, and occurs whenever similarly situated individuals of a different group are accorded different and/or unequal treatment in the context of a similar situation.

2. Harassment is unwelcomed conduct related to race, color, religion, sex, pregnancy, national origin, age, disability, genetic information, sexual orientation, gender identity, veteran's status, familial status, or caregiving responsibilities where such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile or offensive work environment.

3. Hostile work environment is one in which an employee is regularly confronted with offensive conduct, comments, jokes, cartoons or remarks based upon characteristics protected by law, that make it difficult for an employee to perform his or her job. A hostile work environment does not need to be limited to sex-based conduct, and may include conduct or comments based upon race, color, religion, national origin, age, disability, sexual orientation, gender identity or any other characteristics protected by law. Generally the conduct that creates a hostile work environment is repeated behavior which is sufficiently severe or pervasive to affect the terms and conditions of employment.

4. Retaliation is to discriminate against an individual because he or she has opposed any practice made unlawful under the Federal employment discrimination statutes. This protection applies if an individual communicates to his or her employer or to a state or federal agency charged with investigating discriminatory conduct a belief that activity constitutes a form of employment discrimination that is covered by any of the statutes enforced by the Arizona Civil Rights Division of the Arizona Attorney General's office or the Equal Employment Opportunity Commission (EEOC).

### **B. HARASSMENT**

Harassment on the basis of any other protected characteristics is strictly prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, pregnancy national origin, age, disability, genetic information, sexual orientation, gender identity, veteran's status or any other characteristic protected by law that:

1. Has the purpose or effect of creating an intimidating, hostile or offensive work environment;

2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.
4. Harassing conduct includes, but is not limited to:
  - a. Epithets, slurs or negative stereotyping;
  - b. Threatening, intimidating or hostile acts; or
  - c. Denigrating jokes and display or circulation in the workplace of written or graphic material that denigrates or shows hostility or aversion toward an individual or group (including through e-mail).

### **C. SEXUAL HARASSMENT**

1. Sexual harassment constitutes discrimination and is illegal under federal, state and local laws. For the purposes of this policy, sexual harassment is unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature, when for example:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

2. Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different sex. Depending on the circumstances, these behaviors may include, but are not limited to:

- a. unwanted sexual advances or request for sexual favors;
- b. sexual jokes and innuendos;
- c. verbal abuse of a sexual nature;
- d. commentary about an individual's body, sexual prowess or sexual deficiencies;
- e. leering, catcalls or touching;
- f. insulting or obscene comments or gestures;
- g. display or circulation in the workplace of sexually suggestive objects or pictures (including through e-mail);

3. For purposes of clarification, sexual harassment or other forms of unlawful harassment include, but is not limited to the following behaviors:

- a. *Verbal Harassment*: Derogatory comments, propositioning, slurs, or other offensive words or comments on the basis of any protected status; whether made in general, directed to an individual or to a group of people, regardless of whether the behavior was intended to harass. This includes, but is not limited to, inappropriate comments on appearance, including dress or physical features, sexual rumors, code words, and stories.
- b. *Physical Harassment*: Assault, impeding or blocking movement, leering, or the physical interference with normal work, privacy or movement when directed at an individual on the basis of any protected class status. This includes such behaviors as pinching, patting, grabbing, or making explicit or implied threats or promises in return for submission to physical acts.
- c. *Visual Forms of Harassment*: Derogatory, prejudicial, stereotypical, or other offensive posters, photographs, cartoons, notes, bulleting, drawings, screensavers, pictures, or articles of clothing that refers to any protected status or characteristic. This applies to posted materials, material maintained in or on City of Flagstaff property or equipment, or personal property in the workplace.

4. Harassment not involving sexual activity or language (e.g. male manager yells only at female employees and not males) may also constitute sex discrimination if it is severe or pervasive and directed at employees because of their sex.

#### **D. INDIVIDUALS AND CONDUCT COVERED**

These policies are intended to protect all employees from harassment, discrimination or retaliation whether by fellow employees, by a supervisor or manager or by a third party (e.g. a City contractor, vendor, consultant, customer, or the public). These policies are also intended to ensure employees treat third parties with respect and dignity.

Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside of the workplace, such as during business trips, business meetings and business-related social events.

All complaints of harassment, discrimination and retaliation should be reported as outlined in section 1-40-014 Complaint Policy.

#### **E. RETALIATION IS PROHIBITED**

The City of Flagstaff prohibits retaliation of any kind by an employee, supervisor or manager because an employee filed a complaint or participates in an investigation of a complaint. Retaliation shall be deemed to include, but are not limited to:

1. Disciplining, or changing a work assignment or working conditions; and
2. Threatening promotional opportunities, job securities, benefits, terms of employment or any other service related benefits or privileges.

#### **F. RESPONSIBLE PARTIES**

1. The Human Resources Division shall be responsible for formally notifying employees of the City's policy and regularly conducting training on the topics of harassment, discrimination and retaliation.

2. Supervisors and managers are responsible for ensuring that harassment, discrimination, retaliation or other prohibited actions do not occur in the workplace. The supervisor or manager shall immediately report any prohibited behaviors to the Human Resources Director or designee for investigation and possible corrective action. If the subject of the complaint is a supervisor, the complainant is to report the matter to the Human Resources Director or designee.

3. Employees who witness prohibited actions of harassment, discrimination or retaliation are required to report such conduct. Employees are required to cooperate in investigations related to this policy by coming forward with evidence and fully and truthfully making a written report or verbally answering questions when requested by an investigator.

#### **G. REPORTING COMPLAINTS**

All complaints of harassment, discrimination or retaliation shall be reported to the immediate supervisor, Section Head, Division Director or the Human Resources Director or designee. All complaints of harassment, discrimination and retaliation will be thoroughly investigated as outlined in section 1-10-021 Complaint Policy.

Links: [Equal Employment Opportunity Commission Guidelines](#)

#### **1-10-021. COMPLAINT PROCEDURE**

The purpose of the complaint procedure is to outline reporting procedures for City employees or non-City employees who feel they have been subjected to harassment, discrimination or retaliation. All complaints of harassment, discrimination or retaliation will be thoroughly investigated in a timely manner. It is the

policy of the City of Flagstaff that there is fair treatment in workplace matters. Unlawful discrimination, harassment, and retaliation shall not be tolerated.

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment, discrimination or retaliation. The City requires the prompt reporting of complaints or concerns within six months of the event which is the subject of the complaint, so that rapid and constructive action can be taken. The City will make every effort to stop alleged harassment before it becomes severe or pervasive, but can only do so with the cooperation of its employees.

Employees who are unsure if treatment rises to the level of harassment, discrimination or retaliation may seek the assistance of the Human Resources Director or designee. The Human Resources Director or designee will discuss the situation with the employee and provide guidance. These conversations will be documented by the Human Resources Director or designee and may remain informal and confidential between the employee and the Human Resources Director or designee, unless the treatment is severe and pervasive. This provides an employee the opportunity to understand how treatment may relate to City policies and state or federal laws and what are appropriate next steps.

## **A. REPORTING**

1. Employees who feel they have been subjected to harassment, discrimination or retaliation are encouraged to try and solve the problem directly by politely and firmly confronting the individual and tell them to stop. If the employee is not comfortable doing this they should take the issue to their immediate supervisor, Section Head, Division Director, or Human Resources.

2. The City of Flagstaff requires the reporting of all incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position. Individuals who believe they have experienced conduct that they believe is contrary to the City's policy or who have concerns about such matters should file their complaints with their immediate supervisor, Section Head, or Division Director, or the Human Resources Director or designee before the conduct becomes severe or pervasive. Individuals should not feel obligated to file their complaints with their immediate supervisor first before bringing the matter to the attention of one of the other City designated representatives above.

3. Employees filing a complaint will be encouraged to provide a written and/or recorded statement about their knowledge of the alleged incident. Verbal complaints will be treated with equal seriousness. However, in order to conduct a thorough investigation, the reporting party is encouraged to submit written documentation. The employee or non-City employee should be prepared to provide the following information:

- a. His or her name, division and position title;
- b. The name of the person or persons committing the harassment, discrimination or retaliation and their job title;
- c. The specific nature of the harassment, discrimination or retaliation, how long it has gone on, specific dates and any employment action taken against you or any threats made against you as a result of the harassment, discrimination or retaliation;
- d. Witnesses to the harassment, discrimination or retaliation;
- e. Whether you have previously reported such harassment, discrimination or retaliation and, if so, when, to whom and what happened as a result of that report.

4. Any supervisor who becomes aware of possible harassment, discrimination or retaliation of an employee, either as a result of having received a complaint directly from the employee, from any reliable source of information or from his or her personal observation, must report the situation in writing to the Human Resources Director or designee immediately. Any manager or supervisor who fails to report harassment, discrimination or retaliation may be subject to discipline, up to and including termination.

## **B. THE INVESTIGATION**

1. The Human Resources Director or designee shall be responsible for overseeing the investigation and all resulting records. The Human Resources Director or designee may delegate the investigation to another City employee or third party agent at his or her discretion. In the event the complaint is against a member of the City Council or a Council appointed position such as the City Manager, City Attorney or Presiding Magistrate, the investigation shall be referred to an outside agency. In the event the complaint is against the Human Resources Director, the investigation will be referred to the City Manager or their designee.
2. Any reported allegations of harassment, discrimination or retaliation will be investigated promptly, thoroughly and impartially. The investigation may include individual interviews with parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.
3. Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.
4. Based upon the investigator's report, the Human Resources Director or designee and/or the City Manager or designee shall, within a reasonable amount of time, determine whether the conduct of the person against whom a complaint has been made constitutes a violation of the City's policies.
5. Following the investigation of a complaint, the Human Resources Director or designee shall report the facts of the investigation to the City Manager or designee and the Division Director. In cases where it is determined a violation has occurred, the City will take appropriate disciplinary action up to and including termination.

## **C. RESPONSIVE ACTION**

1. Misconduct constituting harassment, discrimination or retaliation will be dealt with promptly and appropriately.
2. Responsive action may include, for example, training, referral to counseling, monitoring of the offender and/or disciplinary action such as a verbal warning, reprimand, withholding of a promotion or pay increase, reduction in wages, demotion, reassignment, temporary suspension without pay, or termination, as the City believes appropriate under the circumstances to correct and prevent harassment, discrimination or retaliation.
3. If an employee making a complaint does not agree with the resolution, the employee may formally appeal in writing to the City Manager or designee within five (5) working days.

## **D. RECORDS**

Complaint records will not be filed or maintained with any other employment information concerning employees, but will be kept as a distinct system of records. If a complaint results in disciplinary action against an employee, the record of that action will be maintained with the employee's personnel records. The accessibility of investigation records will be limited to the City Manager, Deputy City Manager or appointed representatives; except to the extent required by law. Upon receipt of a public records request, the Human Resources division or City Clerk section will notify the complaining employee and subject of the complaint of the request.

## **ADMINISTRATIVE POLICY - DRUG FREE WORKPLACE**

### POLICY

In accordance with the Drug Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D), which requires any recipient of federal funds to certify that they will provide drug free workplaces, the City will adhere to the following policy:

For all City employees the Drug Free Workplace policy prohibits the unlawful use, possession, distribution, dispensing, or manufacture of alcohol or drugs in the workplace and or in a job-related activity.

As required by law, any employee who is convicted or pleads guilty of a drug statute violation occurring in the workplace or while on duty, must notify their department head no later than five (5) calendar days after the occurrence of the conviction. Failure to report such an occurrence will result in disciplinary action, including dismissal.

The City of Flagstaff maintains the right to take appropriate disciplinary action, including dismissal, should such unlawful use, possession, distribution, dispensing, or manufacture of these substances occur in the workplace. Being on the job or reporting for work under the influence of alcohol or drugs is prohibited.

### GUIDELINES

This policy applies to all City employees but does not restrict any City department having positions of a sensitive, security or safety nature of requiring more restrictive policies, upon approval of the City Manager.

The Personnel Division will distribute a copy of the City's Drug Free Workplace policy to all current employees.

All new employees will be required to sign a certificate verifying they have read the City's Drug Free Workplace policy.

Subject to budget limitations the City will maintain an alcohol and drug abuse rehabilitation and awareness program as part of the City's Employee Assistance Program and Drug Free Workplace policy.

Any employee who pleads guilty or is convicted of any alcohol or drug related offense, which occurred while the employee was on duty, shall report such conviction to their supervisor no later than five (5) calendar days after the conviction.

The City will report any such conviction to the appropriate federal agency within ten (10) calendar days.

The City will take the appropriate disciplinary action when notified of violations of this policy, in accordance with the City's Personnel Ordinance.

The Drug Free Workplace policy affirms the City of Flagstaff's commitment to ensure a safe work environment for all employees and to increase employee awareness of the problems associated with drug or alcohol use in the workplace.

## **NOTICE**

**TO: ALL CITY OF FLAGSTAFF EMPLOYEES**

The unlawful manufacturing, distribution, dispensing, possession or use of a controlled substance as defined in Schedules 1 through 5 of Section 202 of the Controlled Substance Act (21 USC 812) and as further defined by Regulation 21 CRF 1300.11 through 1300.15 is prohibited in the workplace. These substances include narcotics, barbiturates, benzodiazepine, alcohol or any other mood-altering chemical. These drugs that dull the senses cause drowsiness, induce sleep, or impair physical or mental abilities.

Any employee who has been prescribed any of the above medication by a physician must be able to perform job duties without any impairment.

Any employee who is found to be manufacturing, distributing, dispensing, or in possession or use, while on duty, of a controlled substance, as defined in this notice, shall receive appropriate personnel action up to and including termination.

Any employee who is under the influence of alcohol or drugs will not be allowed to work. The Employee Assistance Program is available to provide resources and make necessary referrals for all employees regarding substance abuse.