



ARTICLE XXVI SUBSTANCE ABUSE POLICY

I. POLICY:

The Town is committed to a drug-free workplace to maintain a safe and healthy working environment for employees and a productive, effective work force for the Town's citizens. The Town prohibits employees reporting to work with their ability to perform impaired by alcohol, illegal drugs, intentionally and inappropriately used prescriptions, over-the-counter drugs, or other chemicals and substances.

As part of its commitment to safeguard the health of its employees, to provide a safe place for its employees to work, and to promote a drug-free community, the Town of Selma (hereinafter "Town") establishes this policy on the use or abuse of alcohol and illegal drugs by its employees.

Substance abuse, while at work or otherwise, seriously endangers the safety of employees, as well as the general public, and creates a variety of workplace problems, including increased injuries on the job, increased absenteeism, increased health care and benefit costs, increased theft, decreased morale, decreased productivity, and a decline in the quality of services provided by the Town.

The Town has established this policy to detect users and remove abusers of alcohol and illegal drugs from the workplace. It is also the policy of the Town to prevent the use and/or presence of these substances in the workplace and to assist employees in overcoming any dependence on drugs and/or alcohol in accordance with the following guidelines.

II. PURPOSE:

The purpose of this policy is to communicate the Town's position on alcohol and drugs in the workplace and to provide guidance for the implementation of related programs.

III. PROVISIONS:

All Town employees are covered by this policy. As a condition of employment, employees are required to abide by the terms of this policy. This Substance Abuse Policy primarily governs actions in the areas of alcohol and drugs. Other Town policies may be applicable in these areas to the extent that they do not conflict with this policy.

Certain employees may be subject to additional requirements under State and/or Federal regulations.

All employees are to be informed of the Town's Substance Abuse Policy and be made aware of its contents. Employees shall be given a summary of the Town's Substance Abuse Policy and be required to sign an Acknowledgment of Receipt and Understanding.

All full-time and permanent part-time applicants shall be informed in writing of the Town's policy of pre-employment testing and shall be required to sign an Applicant Drug Testing Consent Agreement prior to referral for a physical or drug test or an offer of hire.

Definitions

Illegal Drugs.

Drugs or controlled substances which are: (1) not legally obtainable or (2) legally obtainable but not obtained or used in a lawful manner. Examples include, but are not limited to, cocaine and marijuana, as well as prescription drugs which are not lawfully obtained or properly utilized. The term "illegal drug" also refers to mind-altering and/or addictive substances which are not sold as drugs or medicines but are used for mind or behavior altering effect.

Legal Drugs.

Those drugs prescribed or over-the-counter drugs which are legally obtained by the employee and used for the purpose for which they were prescribed and sold.

Town Property.

Includes work sites; parking lots; vehicles; offices owned, rented, utilized, or serviced by the Town or by any customer of the Town; employee-owned or employee-rented vehicles on the property of the Town or of any customer of the Town while on Town business; and locations where the employee represents the Town in any capacity.

On Duty.

Includes all working hours, as well as meal periods and break periods, regardless of whether or not on Town premises, and all hours when the employee represents the Town in any capacity.

IV. PROHIBITIONS:

Drug Use

The use, sale, purchase, possession, manufacture, distribution, or dispensing of illegal drugs on Town property or during work times is against Town policy and is cause for immediate discharge.

It is also against Town policy for any employee to report to work or to work with the presence of illegal drugs in his or her body. Employees who violate this policy are subject to disciplinary action, up to and including discharge.

Legal drugs may also affect the safety of the employee, co-workers, or members of the public. Therefore, any employee who is taking any legal drug which may impair safety, performance or any motor functions must advise his or her supervisor before reporting to work under such medication. A failure to do so may result in disciplinary action. Improper use of "legal drugs" is prohibited and may result in disciplinary action, up to and including discharge.

Refusal to submit to, efforts to tamper with, or failure to pass a drug test will result in disciplinary action, up to and including discharge, and/or referral to the Town's Employee Assistance Program (EAP).

Alcohol Use

The consumption of alcohol on Town property or while on duty is prohibited and will result in disciplinary action, up to and including discharge. There may be occasions, however, removed from the usual work setting, at which it is permissible to consume alcohol in moderation with Town approval on Town property.

It is against Town policy to report to work or to work under the influence of alcohol.

An employee will be considered under the influence when, in the judgment of the employee's supervisor or other management official, and the employee's ability to perform the job safely and effectively is affected by the use of alcohol. An alcohol test by breathalyzer, blood test, or other scientifically acceptable method may be performed. An alcohol test of 0.04 or higher will be considered positive. If the results of the alcohol test are between 0.02 and 0.04, then the employee shall not be permitted to perform safety sensitive functions for 24 hours following the administration of the test.

Refusal to submit to, efforts to tamper with or failure to pass an alcohol test will result in a disciplinary action, up to and including discharge, and/or referral to the Town's EAP.

V. TESTING:

Pre-Employment Testing of Applicants

All full-time and permanent part-time applicants considered final candidates for a position will be tested for the presence of illegal drugs as a part of the application process.

These applicants will be advised of the Town's pre-employment testing requirements in writing prior to an offer of hire or referral for a physical. Applicants will be asked to sign the Applicant Drug Testing Consent Agreement. If an applicant refuses, he or she will not be considered for employment, and the employment application process will be terminated.

Any applicant who refuses to submit to, tampers with, or fails to pass the pre-employment drug test shall be ineligible for hire for a period of one year.

Reasonable Suspicion

All employees may be asked to submit to an alcohol and/or drug test if cause exists to indicate that their ability to perform work safely or effectively may be impaired. Testing for cause should be based on specific objective facts and reasonable inferences drawn from these facts in the light of experience. Testing for cause does not required certainty; however, mere "hunches" are not sufficient to meet this standard. Factors which could establish cause include, but are not limited to:

Direct observation of an individual who may be engaged in alcohol/drug-related activity:

- 1) A pattern of abnormal conduct.
- 2) Unusual, irrational, or erratic behavior.
- 3) Unexplained, increased, or excessive absenteeism or tardiness.
- 4) Sudden changes in work performance.
- 5) Repeated failure to follow instructions or operating procedures.
- 6) Violation of Town safety policies or failure to follow safe work practices.
- 7) Unexplained or excessive negligence or carelessness.
- 8) Discovery or presence of drugs in an employee's possession or near an employee's workplace.
- 9) Odor or residual odor peculiar to some drugs.
- 10) Arrest or conviction for a drug-related crime.
- 11) Information provided either by reliable and credible sources or independently corroborated.
- 12) Evidence that an employee has tampered with a prior alcohol/drug test.

Commercial Driver's License (CDL) holders will be required to receive at least 60 minutes of training on alcohol misuse and at least 60 minutes of training on controlled substance use.

Alcohol testing is authorized only if the observations are made during, just before, or just after the period the driver is required to be in compliance. If a reasonable suspicion alcohol testing is not administered within two hours, the procedures followed in post-accident testing should be followed.

If a supervisor believes cause exists, the supervisor should report his or her findings and observations to the Town Manager or his designee. A written record must be made of the observations leading to an alcohol and/or controlled substances test and be signed by the supervisor who made the observations.

Random Testing

Employees holding a CDL will be required to submit to alcohol and drug testing on a random basis. Covered individuals will be informed in writing that they are subject to random testing due to the U.S. DOT Alcohol and Drug Testing regulations effective January 1, 1996.

Alcohol testing will be administered at a minimum annual rate of 50% of the average number of driver positions, will be unannounced, and will be spread reasonably throughout the calendar year. The drivers can be tested only during, immediately prior to, or immediately after they are required to be in compliance.

If the driver selected is on vacation or other leave, either another driver will be selected, or the original selection will be kept confidential until the driver returns to work.

Selection of employees for random testing shall be conducted through the use of a random number generator or other neutral selection process.

Post-Accident Testing

CDL employees may be tested for the presence of alcohol and/or drugs following an accident or other occurrence that involves one or more of the following covered events: (1) a fatality; (2) an injury to an employee or other individual; (3) substantial damage to vehicles; (4) substantial damage to other property; (5) and/or when the driver receives a citation for a moving traffic violation arising from an accident.

Supervisors will be held responsible to make sure that post-accident testing is done on employees.

Follow-up Testing

Employees who have been determined to have used alcohol and/or illegal drugs and who have accepted the opportunity to enter a drug counseling or rehabilitation program will be subject to unannounced follow-up tests for a two-year period after returning to work or completion of any rehabilitation program, whichever is later. Before returning to duty an employee must render a 0.02 alcohol test and a verified negative result for controlled substances. They must also participate in any assistance program prescribed by a substance abuse professional.

Additional Testing

Additional testing may also be conducted as required by applicable state or federal laws, rules or regulations or as deemed necessary by the Town. CDL employees will be subject to a minimum of six follow-up-controlled substance and/or alcohol tests in the first 12 months. Upon initial implementation of this Substance Abuse Policy, all current employees will comply with testing as applicable.

Testing Procedures

The Town will determine for which drugs testing will be performed.

If the employee refuses to consent to testing, fails to appear for testing, tampers with the test, or fails to cooperate with the testing procedures, he or she may be referred to the Town's EAP or may be discharged.

The Town will employ a very accurate testing program. Urine and blood samples and/or breathalyzer results will be analyzed by a highly qualified independent laboratory certified by the National Institute on Drug Abuse (NIDA) which has been selected by the Town. All urine samples will be tested according to the following sequence:

- 1) All urine samples will first be subjected to an initial screening process to detect the presence of illegal drugs.
- 2) Those samples having a negative screen (no illegal or illicitly used substances present) will be considered to have tested negative, and no further testing will be done on that sample.
- 3) Those samples that test positive on the first screen will be tested more extensively by means of Gas Chromatography/Mass Spectrometry (GC/MS) to eliminate any false-positive tests and confirm the presence of illegal drugs.

Employees who consent to testing will be informed of the results by the Town's designated Medical Review Officer (MRO) or the appropriate Town official. As set forth herein, a

positive test will result in disciplinary action up to and including discharge or referral of the employee to the EAP.

Any employee who adulterates a specimen or who otherwise attempts to invalidate a test shall be terminated.

Urine collection procedures shall allow individual privacy unless there is reason to believe that a particular individual may adulterate or substitute the specimen to be provided, based upon knowledge of prior substance use (e.g., a previous positive test), or based upon the circumstances.

Employees who test positive may appeal the test result in accordance with the procedure listed herein.

Appeal of Confirmed Positive Test

After receipt of a report confirming a positive test result report from the testing laboratory, the Town's MRO will inform an employee of the positive test.

An employee may request and receive from the Town a copy of the test result report.

Within three (3) working days after receiving notice of a confirmed positive test result, the employee may submit information to the Town of its designated MRO explaining the positive test result and the reason(s) why the result does not constitute a violation of the Town's Substance Abuse Policy.

The employee may request that a retest be performed on the initial specimen by a NIDA-certified laboratory. The employee shall be responsible for all costs associated with conducting this retest.

Confidentiality

Results of an applicant's or employee's test for the use of illegal drugs or alcohol shall be given to the Town Manager or his designee. In order to effectively address the employees with drug or alcohol problems, it will be necessary for the Town Manager to consult with other persons in the process; however, results will be disseminated to others on a need-to-know basis only.

VI. RESPONSES AND SANCTIONS:

Disciplinary Action

In the case of a first-time violation of the Town's Substance Abuse Policy, including a positive drug or alcohol test result (without evidence of use, sale, possession, distribution,

or purchase of drugs or alcohol on Town property or while on duty), the following will apply:

- 1) The employee will receive a written warning and be referred to the EAP.
- 2) The employee must contact the Town's EAP within 24 hours and participate in professional drug and/or alcohol evaluation, counseling and/or rehabilitation as prescribed by the EAP. The employee must cooperate with the EAP staff in carrying out its responsibility to coordinate the evaluation, counseling, treatment, and follow-up process.
- 3) Employees who: (1) do not cooperate with the EAP; (2) refuse to participate in or do not satisfactorily complete a drug or alcohol abuse assistance or rehabilitation program; or (3) subsequently violate this policy will be discharged.
- 4) The employee may require in-patient or out-patient treatment. If in-patient treatment is required, the employee will be placed on Leave Without Pay during his or her absence after the employee has exhausted all paid leave. Any leave may apply toward the employee's Family Medical Leave benefit if applicable.
- 5) Any employee referred to the EAP for alcohol and/or drug use must sign a Last Chance Agreement prior to returning to work and agree to submit to unannounced alcohol and/or drug testing for a period of up to two (2) years.
- 6) After signing the Last Chance Agreement and before returning to work, the employee must also comply with Chapter 3, Section 5 – Follow-up Testing and Section 6 – Additional Testing.

The Town may suspend employees under this policy pending the results of an alcohol and/or drug test or investigation.

Any employee having a second positive alcohol and/or drug test during his or her employment with the Town will be discharged.

Any employee using, selling, purchasing, possessing, distributing, or dispensing drugs or alcohol while on duty or on Town property will be subject to disciplinary action, up to and including discharge.

Employee Assistance Program (EAP)

The Town regards its employees as its most important asset. Accordingly, the Town maintains an EAP which provides help to employees who suffer from alcohol or drug abuse and/or other personal or emotional problems. Employees with such problems should seek

confidential assistance from the EAP or other community resources before drug or alcohol problems lead to disciplinary action.

Employees referred to the EAP as a result of a violation of the Town's Substance Abuse Policy may continue their employment with the Town provided:

- 1) They contact the EAP and strictly adhere to all the terms of treatment and counseling prescribed by the EAP.
- 2) Immediately cease any and all use of alcohol and/or drugs; and
- 3) Consent in writing to periodic unannounced testing for a period of up to two (2) years after returning to work or completion of any rehabilitation program, whichever is later, and comply with Chapter 3, Section 5 – Follow-up Testing and Section 6 – Additional Testing.

In keeping with the Town's need for safety and security, the Town Manager will determine whether the Town should grant a leave of absence or reassign an employee following a positive test or during the period of evaluation, treatment, or counseling.

Participating in any evaluation, treatment, or counseling program will be at the employee's expense unless the employee is entitled to such benefits under the terms of the Town's group health plan or by other available benefits. Time lost from work for such a program shall be without pay after the employee has exhausted all paid leave and any leave may apply toward the Family Medical Leave Act benefit where applicable.

Investigations

To ensure that illegal drugs and alcohol do not enter or affect the workplace, the Town reserves the right to search all vehicles, containers, lockers, or other items on Town property in furtherance of this policy. Individuals may be requested to display personal property for visual inspection upon Town request.

Searches will be conducted under this policy only when the Town management has reason to believe that the employee has violated the Town's Substance Abuse Policy.

Failure to consent to a search or to display personal property for visual inspection will be grounds for discharge or denial of access to Town premises.

Arrest or Conviction for Drug-Related Crime

If an employee is arrested for or convicted of a drug-related crime, the Town management will investigate all of the circumstances, and Town officials may utilize the drug-testing

procedure if cause is established by the investigation. In most cases, an arrest for a drug-related crime constitutes cause under this policy.

As a condition of employment, an employee shall notify the Town of any criminal drug statute conviction for a violation which occurred on Town premises. The employee must give notice in writing to the Town within five (5) days of such conviction.

VII. DRUG-FREE AWARENESS PROGRAM

Implementation

The Town will conduct drug-free awareness programs on a regular basis. These programs will inform employees about the following:

- 1) The dangers of drug and alcohol abuse in the workplace.
- 2) The Town's policy of maintaining a drug and alcohol-free workplace.
- 3) Available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- 4) The sanctions that may be imposed for alcohol and drug-abuse violations.

Assistance Available

Employees are encouraged to approach their supervisor or the Human Resources Director at any time with any questions they have about the Town's Substance Abuse Policy as stated herein.

Policy adopted by Selma Town Council

Effective Date: August 10, 2021

As of August 10, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.