

***CITY OF TAKOMA PARK***  
***SUBSTANCE ABUSE POLICY***

**Sec. 8B-212. Substance abuse policy.**

(a) Employees are prohibited from unlawfully manufacturing, distributing, dispensing, possessing or using a controlled substance in the workplace.

(b) Where justified by reliable information and/or observation, criminal violations shall be referred to the appropriate law enforcement authority for further investigation and prosecution.

(c) The city will not hire anyone who is known to currently abuse drugs or alcohol.

(d) All employees must report to work and return to work in a fit condition to perform their duties. Reporting to work under the influence of drugs or alcohol is a violation of this policy and shall subject the employee to disciplinary action.

(e) All employees on official business, on or off the workplace, are prohibited from purchasing, transferring, using or possessing illegal drugs. Violations of this policy is proper cause for administrative or disciplinary action up to and including termination of employment.

(f) Employees who are under the influence of alcohol, have alcohol in their possession or consume alcohol during the working day are in violation of this policy and may be subject to administrative or disciplinary action up to and including termination of employment.

(g) Employees undergoing medical treatment involving prescribed medications which could adversely affect performance, such as drugs which should not be used when operating machinery, motor vehicles, etc., must report this treatment to their supervisors or department heads. Even though the use of such drugs as prescribed by a physician is legal, it may be necessary to modify an employee's duties which might be adversely affected by the use of such drugs.

(h) All employees must report any drug or alcohol conviction to their supervisors within five (5) <sup>calendar</sup> days of that conviction.

(i) Employees convicted of an off-the-job drug or alcohol offense will be in violation of this policy if the violation interferes with the regular performance of their jobs.

(j) All employees must cooperate fully with appropriate law enforcement authorities in the investigation and prosecution of illegal drug or alcohol use in the workplace.

(k) Employees will not be terminated for voluntarily seeking assistance for a substance abuse problem. However, continued

unacceptable job performance, attendance and/or behavior problems shall result in disciplinary action up to and including termination.

(l) Employees who are assigned to or designated sensitive classes will be terminated if they are in violation of this policy.

(m) Any employee found to be in violation of any of the provisions of this policy shall be subject to disciplinary action contained in Section 8B-163 of this Code (as modified by any applicable collective bargaining contract), which includes penalties up to and including termination.

(n) All department heads and supervisors are responsible for adherence, implementation and monitoring of this policy.

(o) All employees will be provided a copy of this policy and are required to acknowledge receipt by returning a signed copy of the following affirmation to their supervisors for insertion in their personnel files:

CITY OF TAKOMA PARK  
SUBSTANCE ABUSE POLICY ACKNOWLEDGEMENT  
OF RECEIPT

As an employee of the City of Takoma Park, I, \_\_\_\_\_, hereby certify that I have received a copy of the city's policy regarding the maintenance of a drug-free workplace. I realize that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited on the city's owned or utilized premises and violation of this policy can subject me to discipline up to and including termination. As a condition of employment, I must abide by the terms of this policy and will notify my supervisor of any criminal drug conviction no later than five (5) <sup>calendar</sup> days after such conviction. I further realize that federal law mandates that the employer communicate this conviction to the federal agency, and I hereby waive any and all claims that may arise from conveying this information to the federal agency.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisor's Signature

\_\_\_\_\_  
Date

Introduced by: Councilmember Chavez  
(Drafted by T. Wayne Hobbs)

1st Reading: October 24, 1994  
2nd Reading: November 14, 1994  
Effective: November 14, 1994

ORDINANCE NO. 1994 - 30

**AN ORDINANCE TO AMEND CHAPTER 8B, ARTICLE 3 (Alcohol And Drug Policy)  
OF THE CODE OF THE CITY OF TAKOMA PARK, MARYLAND**

WHEREAS, the Prince George's County Department of Housing and Community Development has prescribed specific policies relating to a drug-free workplace and CDBG projects; AND

WHEREAS, the Takoma Park Alcohol and Drug Policy requires amending in order to meet the Prince George's County policy.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT:

SECTION 1: Chapter 8B of the Takoma Park Code entitled "Personnel Procedures", Article 3, is amended to read as follows:

**Sec. 8B-212. Substance Abuse Policy.**

(h) All employees must notify the City in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace within five (5) calendar days of that conviction.

- (1) The City is required to notify the appropriate County, State or Federal Agency in writing within ten calendar days after receiving notice under Sec. 8B-212 (h) from an employee or otherwise receiving actual notice of such conviction. The City must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal Agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) and CDBG Program Years of such affected grants.
- (2) Within 30 calendar days of receiving notice under this provision with respect to any employee who is so convicted, one of the following actions will be taken:
  - (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (b) Requiring such an employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(o) All employees will be provided a copy of this policy and are required to acknowledge receipt by returning a signed copy of the following affirmation to their supervisors for insertion in their personnel files:

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CITY OF TAKOMA PARK
SUBSTANCE ABUSE POLICY ACKNOWLEDGEMENT OF RECEIPT

As an employee of the City Of Takoma park, I, \_\_\_\_\_, hereby certify that I have received a copy of the City's policy regarding the maintenance of a drug-free workplace. I realize that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on the City's owned or utilized premises and violation of this policy can subject me to discipline up to and including termination. As a condition of employment, I must abide by the terms of this policy and will notify my supervisor of any criminal drug conviction no later than five (5) calendar days after such conviction. I further realize that law mandates that the employer communicate this conviction to the appropriate county, state or federal agency, and I hereby waive any and all claims that may arise from conveying this information to the appropriate agency.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisor's Signature

\_\_\_\_\_  
Date

Section 2. That this Ordinance shall become effective upon adoption.

Adopted this 14th day of November, 1994 by roll call vote as follows:

- AYE: Sharp, Chavez, Porter, Williams
NAY: None
ABSTAINED: None
ABSENT: Davenport, Elrich, Rubin

(p) Volunteers and hourly contract employees of the city are forbidden to use or be under the influence of alcohol or drugs while acting in their capacity as volunteers or contract employees. Violation of this policy is sufficient cause for termination of volunteer or contract employee status.

(Ord. No. 1991-2, § 1, 2/25/1991; Ord. No. 1991-5, § 1, 3/25/1991.)

#### ARTICLE 4. EMPLOYEE ASSISTANCE PROGRAM.

##### Sec. 8B-213. Purpose.

The purpose of this Article is to provide for an Employee Assistance Program which is a benefit for those full-time and part-time employees who receive regular benefits under applicable city regulations and ordinances.

(Ord. No. 1991-2, § 1, 2/25/1991.)

##### Sec. 8B-214. Employee Assistance Program.

(a) Recognizing that declining job performance and behavioral problems may be caused by factors not directly associated with one's job function, it is the city's policy to make help available rather than to merely discipline employees when these problems affect performance. Accordingly, the city will establish an Employee Assistance Program, which has as its goal restoring employees to optimal job performance by using a positive approach to reduce losses of productivity, as well as offering assistance and encouraging employees to help themselves through self referral.

(b) The Employee Assistance Program will include the following principles:

(1) Behavioral disorders, emotional problems, alcoholism and other substance abuse are illnesses which can be successfully treated, and employees experiencing these problems will receive the same careful consideration and offer of assistance that is extended to employees having other illnesses.

(2) The program will be conducted to ensure the same respect and confidentiality accorded employees suffering from any health condition.

(3) Employees will be encouraged to contact a designated counselor or program coordinator for confidential assistance if needed.

(4) The decision to seek evaluation of problems and accept suggested treatment is the employee's responsibility. However, if a supervisor alerts an employee to a performance problem, it is the employee's responsibility, along with the supervisor's, to take whatever steps are necessary to resolve the problem.

(5) No employee will have his/her job security or promotion opportunities jeopardized by seeking counseling or assistance.

(6) Nothing in the Employee Assistance Program will prohibit formal disciplinary or adverse action, including termination of employment, where performance is deficient. However, appropriate consideration will be given to employees in treatment programs before disciplining them.

(c) The Employee Assistance Program will include provisions to educate and inform employees about:

(1) The dangers of drug and alcohol abuse in the workplace and the community at large.

(2) The city's policy of maintaining a drug-free workplace.

(3) A thorough explanation of the purpose and workings of the Employee Assistance Program.

(4) The penalties that may be imposed for drug and alcohol abuse violations.

(d) The Employee Assistance Program shall provide a supervisor's training program to assist supervisory personnel in identifying drug and alcohol use among employees. Such training will be directed towards helping supervisors to recognize the conduct and behavior giving rise to a reasonable suspicion of drug or alcohol use, to identify employees who need drug counseling and employee assistance programs and to be aware of those employees who pose an immediate safety threat.

(Ord. No. 1991-2, § 1, 2/25/1991.)

## ARTICLE 5. SCREENING FOR DRUGS/ALCOHOL.

### Sec. 8B-215. Purpose.

The purpose of this Article is to provide policy and procedures for conducting drug and alcohol screening when there is reasonable

suspicion that an employee, as defined in Article 3, is under the influence or intoxicated during working hours.  
(Ord. No. 1991-2, § 1, 2/25/1991.)

**Sec. 8B-216. Screening for drugs and/or alcohol.**

(a) The city may require a current employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs and alcohol during work hours. Testing of police officers must conform to the provisions of the State of Maryland Law Enforcement Officer's Bill of Rights.

(b) "Reasonable suspicion" means an articulable belief based on specific objective facts and reasonable inference drawn from those facts. Reasonable suspicion may include, but is not limited to:

- (1) A pattern of abnormal or erratic behavior;
- (2) Information of recent drug or alcohol use provided by a reliable and credible source;
- (3) Direct observation of drug or alcohol use; or
- (4) Presence of the physical symptoms of drug or alcohol use (i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes).

(c) Consent. Before a drug and alcohol test is administered, employees will be asked to sign a consent form authorizing the testing and permitting release of test results to city officials with a need to know. The consent form shall provide space for employees to acknowledge that they have been notified of the city's drug testing policy. Employees and applicants may at this time provide a list of medications that they have recently used. The list of medications, if provided, shall be sealed and held as confidential until there has been a positive test result. ~~In the event of a confirmed positive test result,~~ the list of medications shall only be disclosed to the medical officer who will determine whether the positive result was due to lawful use of any of the listed medications. Employees may choose to provide such a list after being notified of a confirmed positive result. The consent form shall also include:

- (1) The procedure for confirming an initial positive test result.
- (2) The consequences of a confirmed positive test result.
- (3) The right to explain a confirmed positive test result and the appeal process available.



(4) The consequences of refusing to undergo a drug and alcohol test.

(d) Procedure. When, in the supervisor's judgment, there is reasonable suspicion to believe that an employee is under the influence of drugs or alcohol, the supervisor will immediately contact the department head, deputy, acting department head, Personnel Officer or Assistant City Administrator who will evaluate the supervisor's recommendation and, if appropriate, authorize the supervisor to request the employee to consent to testing. The employee and a representative of the employee's union will be notified that the city representatives suspect the employee is under the influence of drugs or alcohol and will list the reasons which document their suspicion. The employee, in the presence of his/her union representative, will be questioned about his/her behavior or other reasons that have caused the supervisor and city officer to suspect that the employee is under the influence of drugs or alcohol. If, after the employee's explanation, the supervisor and city officer still suspect that the employee is under the influence of drugs or alcohol, the city officer may request that the employee submit to a drug/alcohol detection test. Provided that the employee consents, the supervisor will escort the individual to the designated testing facility.

(e) Documentation of reasonable suspicion. Supervisors and city officers shall detail in writing the specific facts, symptoms or observations which formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the appropriate department head or designee and a copy shall be furnished to the employee. The facts underlying the determination of reasonable suspicion shall be disclosed to the employee at the time the demand is made.

~~(f) Drugs to be tested for. When drug and alcohol screening is~~  
required under the provisions of this policy, a urinalysis test will be given to detect the presence of the following drugs:

- (1) Alcohol (ethyl).
- (2) Amphetamines (e.g., speed).
- (3) Barbituates (amobarbital, butabarbital, phenobarbital, secobarbital).
- (4) Cocaine.
- (5) Methaqualone (e.g., quaalude).
- (6) Opiates (e.g., codeine, heroin, morphine, hydromorphone, hydrocodone).

(7) Phencyclidine (PCP).

(8) THC (marijuana).

(9) Drugs specified in the State of Maryland Schedule of Controlled Dangerous Substances.

(g) Refusal to consent. An employee who refuses to consent to a drug and alcohol test when reasonable suspicion of drug or alcohol use has been identified is subject to disciplinary action up to and including termination.

(h) Laboratory testing requirements.

(1) All drug and alcohol testing of employees shall be conducted at medical facilities or laboratories selected by the city. To be considered as a testing site, a medical facility or lab must submit, in writing, a description of the procedure that will be used to maintain test samples. The city shall not select a test facility that does not employ:

(A) Testing procedures that ensure privacy to employees consistent with the prevention of tampering.

(B) Methods of analysis that ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results.

(C) Chain of custody procedures that ensure proper identification, labeling and handling of test samples.

(D) Retention and storage procedures that ensure reliable results on confirmatory tests of original samples.

(2) All drug and alcohol testing will be performed by a laboratory which meets the standards recommended by the National Institute on Drug Abuse (NIDA).

(i) Confidentiality of test results. All information from an employee's drug and alcohol test is confidential, and only those with a need to know are to be informed of test results. Disclosure of test results to any other person, agency or organization is prohibited unless written authorization is obtained from the employee. The results of a positive test shall not be released until the results are confirmed. The records of unconfirmed positive test results and negative test results shall be destroyed by the testing laboratory.

(j) Privacy in drug testing. Urine samples shall be provided in a private restroom stall or similar enclosure so that employees may not be viewed while providing the sample. Employees will be given hospital gowns to wear while they are providing test samples in order to ensure that there is no tampering. Street clothes, bags, briefcases,

purses and other containers may not be carried into the test area. The water in the commode shall be colored with blue dye to protect against dilution of test samples.

(k) Mandatory Employee Assistance Program referral. Upon the first confirmed determination that an employee has been under the influence of drugs or alcohol, the city shall refer the employee to the Employee Assistance Program for assessment, counseling and rehabilitation, unless the employee's drug or alcohol use has resulted in an accident serious enough to warrant dismissal. Participation in the Employee Assistance Program is voluntary, and no disciplinary action may be taken against an employee for failure to begin or complete an Employee Assistance Program. Disciplinary action based on a violation of the city's Drug and Alcohol Policy is not automatically suspended by an employee's participation in an Employee Assistance Program and may be imposed when warranted.

Voluntary participation in an Employee Assistance Program prior to a confirmed positive test result is encouraged. No disciplinary action will be brought as a result of volunteering to participate in such a program. Employees who, prior to a positive test result, voluntarily identify themselves as drug or alcohol users and obtain counseling and rehabilitation through the city's Employee Assistance Program shall not be disciplined for their drug and/or alcohol use if they thereafter refrain from violating the city's Drug and Alcohol Policy. All employees, however, can be disciplined for any incidents resulting from their violation of the city's Alcohol and Drug Policy.

(l) Grievances and appeals. All appeals and grievances for actions under this policy will be in accord with the grievance procedures in the City Code, City Regulations or an applicable collective bargaining contract.

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(Ord. No. 1991-2, § 1, 2/25/1991.)

CITY OF TAKOMA PARK  
SUBSTANCE ABUSE POLICY

ACKNOWLEDGEMENT OF RECEIPT\*

(Print name)

As an employee of the City of Takoma Park, I, \_\_\_\_\_, hereby certify that I have received a copy of the City's policy regarding the maintenance of a drug-free workplace. I realize that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on the City's owned or utilized premises and violation of this policy can subject me to discipline up to and including termination. As a condition of employment, I must abide by the terms of this policy and will notify my supervisor of any criminal drug conviction no later than five (5) calendar days after such conviction. I further realize that law mandates that the employer communicate this conviction to the appropriate county, state or federal agency, and I hereby waive any and all claims that may arise from conveying this information to the appropriate agency.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisor Signature

\_\_\_\_\_  
Date

=====  
\*A copy of the policy is attached. All employees are required to acknowledge receipt of the policy for insertion in their personnel file.