



Policy: **Non-DOT Drug and Alcohol Testing and Drug Free Workplace**
Adopted: February 4, 2020
Effective: March 4, 2020
Revised:

Purpose and Policy

The City of Northfield (“City”) has a vital interest in maintaining safe, healthful, and efficient working conditions for employees, and recognizes that individuals who are impaired because of drugs and/or alcohol jeopardize the safety and health of other workers, the public, as well as themselves. The City does not intend to intrude into the private lives of its employees, but strongly believes that a drug- and alcohol-free workplace is in the best interest of employees and the public alike. Alcohol and drug abuse can cause unsatisfactory job performance, increased tardiness and absenteeism, increased accidents and workers’ compensation claims, higher insurance rates, and an increase in theft of City property.

Consistent with the Minnesota Drug and Alcohol Testing in the Workplace Act, the City’s Non-DOT Drug and Alcohol Testing Policy has been established for the purpose of providing a safe workplace for all. City employees and applicants required to hold a commercial driver’s license by the United States Department of Transportation (“DOT”) for their job will be tested under the City’s DOT Drug and Alcohol Testing Policy (the “DOT Policy”) for the tests specified in such policy. All other tests and employees and job applicants offered employment with the City must undergo testing as described by this policy.

To ensure the policy is clearly communicated to all employees and applicants to whom offers of employment have been made, and to comply with state law, employees and applicants are required to review this policy and sign the Notice and Consent of Drug and Alcohol Testing the City will provide. A job applicant will also acknowledge in this form that he/she understands that passing the drug test is a requirement of the job.

Because changes in applicable law and the City’s practices and procedures may occur from time to time, this policy may change in the future, and nothing in this policy is intended to be a contract, promise, or guarantee the City will follow any particular course of action, disciplinary, rehabilitative or otherwise, except as required by law. This policy does not in any way affect or change the status of any at-will employee.

Any revisions to the Minnesota Drug and Alcohol Testing in the Workplace Act will take precedent over this policy to the extent the policy has not incorporated those revisions.

If any specific provisions of this policy conflicts with any current labor contract or civil service rules, the labor contract or civil service rules will prevail, except for any specific language required by law.

The City retains the full and unrestricted right to establish, modify, or eliminate any component of employment related to or included within this policy.



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Persons Subject to Testing and Circumstances Under Which Testing May Be Required

Under this policy, the City may test any applicant to whom an offer of employment has been made, and may test any employee for alcohol and/or controlled substance under any of the following circumstances with a properly accredited or licensed testing laboratory:¹

Pre-Employment Testing²

For positions that the City determines all job applicants conditionally offered employment for that position will undergo drug and/or alcohol testing, every job applicant offered employment with the City for that position will receive the offer conditioned upon passing a drug and/or alcohol test, among other conditions. If the job offer is withdrawn based on drug test results, the City will inform the applicant of the reasons for the withdrawal. A positive drug test result from an initial screening test verified by a confirmatory test, a refusal to take the test, or failure to meet other conditions of the offer will result in a withdrawal of the offer of employment even if the applicant’s provisional employment has begun. A negative or positive dilute test result following a second collection, which has been confirmed, will also result in immediate withdrawal of an offer of employment to an applicant.

Reasonable Suspicion Testing³

Employees may be subject to alcohol and drug testing when reasonable suspicion exists to believe that the employee:

- Is under the influence of alcohol or a controlled substance; or
- Has violated written work rules prohibiting the use, possession, sale or transfer of drugs or alcohol while working, while on City property, or while operating City vehicles, machinery or any other type of equipment; or
- Has sustained a personal injury as defined in Minn. Stat. § 176.011, subd. 16 or has caused another employee to sustain an injury or;
- Has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

Reasonable suspicion may be based upon, but is not limited to, facts regarding appearance, behavior, speech, breath, odor, possession, proximity to or use of alcohol or a controlled substance or containers or paraphernalia, poor safety record, excessive absenteeism, impairment of job performance, or any other circumstances that would cause a reasonable employer to believe that a violation of the City’s policies concerning alcohol or drugs may have occurred. These observations will be reflected in writing on a Reasonable Suspicion Record Form.

For off-site collection, employees will be driven to the employer-approved medical facility by their supervisor or a designee. For an on-site collection service, the employee will remain on site and be observed by the supervisor or designee. The medical facility or on-site collection service will take the urine or blood sample, and will forward the sample to an approved laboratory for testing.

Treatment Program Testing

The City may request or require an employee to undergo drug and/or alcohol testing if the employee has been referred by the City for chemical dependency treatment or evaluation, or is participating in a chemical dependency treatment program under an employee benefit plan.⁴ In such a case, the employee may be requested or required to undergo drug and/or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed chemical dependency treatment program.



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Routine Physical Examination Testing

The City may request or require an employee to undergo drug and/or alcohol testing as part of a routine physical examination. The City will request or require this type of testing no more than once annually, and the employee will be provided with at least two weeks’ written notice that the test will be required as part of the physical examination.⁵

Right of Refusal

Each employee understands, upon written receipt of the Handbook, that this Handbook replaces all of the Employer’s previous materials, policies and handbooks concerning employment or working relationships between employees and the Employer, whether written or verbal. Since the information, policies, and benefits described in this Handbook are necessarily subject to change at any time, the employee acknowledges that revisions to the Handbook may occur. I understand that the Employer will generally attempt to communicate any revisions, modifications or additions to this Handbook to its employees, but that these revisions, modifications and changes will be effective immediately upon adoption, with or without such notice and, accordingly, the employee will not rely on the continuation of any such information, policies or benefits. The employee understands that only the employer can adopt any revisions to the policies in this Handbook.

Refusal on Sincerely Held Religious Belief

An employee or job applicant who, based on a sincerely held religious belief, refuses to undergo drug or alcohol testing of a blood sample will not be considered to have refused testing, unless the employee or job applicant also refuses to undergo drug or alcohol testing of a urine sample

Cost of Required Testing

The City will pay for the cost of all drug and alcohol testing requested or required of all job applicants and employees, with the exception of confirmatory retests. Job applicants and employees are responsible for paying for all costs associated with any requested confirmatory retests.

¹ Minn. Stat. § 181.953, subd. 1.
² Minn. Stat. §§ 181.951 and .953.
³ Minn. Stat. § 181.951, subd. 3.
⁴ Minn. Stat. § 181.951, subd. 6.
⁵ Minn. Stat. § 181.951, subd. 3.



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Review and Notification of Test Results

Notification of Negative Test Results

In the case of job applicants, the City Administrator will notify a job applicant of a negative drug and/or alcohol result within three working days of receipt of result by the City, and the hiring process will resume.⁶ A “Negative Test Results Notification” form will be sent to the job applicant, and the job applicant may request a copy of the test result report from the City Administrator.

In the case of current employees, the City Administrator will notify the employee of a negative drug and/or alcohol result within three working days of receipt of result by the City.⁷ A “Negative Test Results Notification” form will be sent to the employee, and he or she may request a copy of the test result report from the City Administrator.

Notification of Positive Test Results

In the event of a confirmed positive blood or urine alcohol and/or drug test result, the City will notify the employee of a positive drug and/or alcohol result within three days of receipt of the result. The City Administrator will send to the employee or job applicant a “Positive Test Results Notification” letter containing further instructions. The employee or job applicant may contact Human Resources to request a copy of the test result report if desired. A laboratory must report results to the City within three working days of the confirmatory test result.⁸

Right to Provide Information after Receiving Test Results

Within three working days after notice of a positive controlled substance or alcohol test result on a confirmatory test, the employee or job applicant may submit information to the City to explain the positive result. If an employee submits information either before a test or within three working days after a positive test result that explains the positive test result, (such as the use of prescribed substances or OTC medications), the City will not take an adverse employment action based on that information unless the employee has already been under an affirmative duty to provide the information before, upon, or after hire.⁹

Right to Confirmatory Retest¹⁰

A job applicant or employee may request a confirmatory retest of the original sample at the job applicant’s or employee’s own expense after notice of a positive test result on a confirmatory test. Within five working days after notice of the confirmatory test result, the job applicant or employee must notify the City in writing of the job applicant’s or employee’s intention to obtain a confirmatory retest. Within three working days after receipt of the notice, the City will notify the original testing laboratory that the job applicant or employee has requested the laboratory to conduct the confirmatory retest or transfer the sample to another qualified laboratory licensed to conduct the confirmatory retest. The original testing laboratory will ensure the control and custody procedures are followed during transfer of the sample to the other laboratory. The laboratory is required to maintain all samples testing positive for a period of six months.¹¹ The confirmatory retest will use the same controlled substance and/or alcohol threshold detection levels as used in the original confirmatory test.

In the case of job applicants, if the confirmatory retest does not confirm the original positive test result, the City’s job offer will be reinstated and the City will reimburse the job applicant for the actual cost of the confirmatory retest. In the case of employees, if the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test will be taken against the employee, the employee will be reinstated with any lost wages or salary for time lost pending the outcome of the confirmatory retest result, and the City will reimburse the employee for the actual cost of the confirmatory retest.



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Access to Reports

An employee will have access to information contained in his or her personnel file relating to positive test results and to the testing process, including all information gathered as part of that process.¹²

Dilute Specimens

A negative or positive dilute test result (following a second collection) which has been confirmed will subject an employee to immediate discharge.

⁶ Minn. Stat. § 181.953.

⁷ Minn. Stat. § 181.953.

⁹ Minn. Stat. § 181.953, subd. 3.

⁹ Minn. Stat. § 181.953, subd. 10.

¹⁰ Minn. Stat. § 181.953, subd. 9.

¹¹ Minn. Stat. § 181.953, subd. 3.

¹² Minn. Stat. § 181.953, subd. 10.



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Drug and Alcohol-Free Workplace Policy

Employees must, as a condition of employment, abide by the terms of this policy. City recognizes drug abuse as a potential health, safety, and security problem. Employees needing help in dealing with such problems are encouraged to use their health insurance plans, as appropriate, and/or contact the Employee Assistance Plan.

Use and Possession of Alcohol or Drug(s)

Employees are prohibited from the use, possession, transfer, transportation, manufacture, distribution, sale, purchase, solicitation to sell or purchase, or dispensation of alcohol, drugs, or drug paraphernalia while on duty; on City premises; operating any City vehicle, machinery, or equipment; or performing any City business, except (1) pursuant to a valid medical prescription used as properly instructed; (2) the use of over-the-counter controlled substance used as intended by the manufacturer; or (3) when necessary for approved law enforcement activity.

Besides the policy prohibiting the use or possession of alcohol, illegal drugs, or misused prescription drugs on the worksite, we also prohibit the use of, possession of, or impairment by any cannabis products (including medical cannabis) on the worksite by any employee of the City or while “on call” and subject to return to work. Having a medical marijuana card, patient registry number, and/or cannabis prescription from a physician does not allow anyone to use, possess, or be impaired by the drug on site. The federal government still classifies cannabis as an illegal drug, even though Minnesota has decriminalized its use for certain medical purposes.

There is no acceptable concentration of marijuana metabolites in the blood or urine of an employee who operates City equipment or vehicles or who is in a safety-sensitive position. Applicants and employees are still subject to being tested under our drug and alcohol testing policy and, as necessary, under the DOT testing policy found in Section 2. Employees are subject to being disciplined, suspended, or terminated after a confirmed positive test for cannabis if the employee used, possessed, or was impaired by cannabis, including medical cannabis, while on the premises or during the hours of employment.

Employees are prohibited from having a detectable amount of THC in their blood or urine, other than pursuant to a valid medical prescription used as properly instructed and not from use on City property or during work hours. An employee may present verification of enrollment in the patient registry as part of the employee’s explanation of a positive urine or blood test.¹³ The use of cannabidiol substances containing trace amounts of THC is not an explanation for a confirmed positive THC test.

While Impaired by Alcohol or Drug(s)

Employees are prohibited from being impaired by any alcohol or drugs when reporting for work; while on duty; on the City’s premises; while operating any City vehicle, machinery, or equipment; or when performing any City business.

Employees are prohibited from being under the influence of alcohol or drugs, or having a detectable amount of an illegal drug in the blood or urine when reporting for work; while on duty; on the City’s premises; while operating any City vehicle, machinery, or equipment; or when performing any City business, except (1) pursuant to a valid medical prescription used as properly instructed; or (2) the use of over-the-counter controlled substance used as intended by the manufacturer.

Driving While Impaired



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A conviction of driving while impaired in a City-owned vehicle at any time during business or non-business hours, or in an employee-owned vehicle while conducting City business, may result in discipline, up to and including discharge.

Criminal Controlled Substance Convictions

Any employee convicted of any criminal drug statute must notify his or her supervisor and the City Administrator in writing of such conviction no later than five days after such conviction. Within 30 days after receiving notice from an employee of a controlled substance-related conviction, the City will take appropriate personnel action against the employee up to and including discharge, or require the employee to satisfactorily participate in a controlled substance abuse assistance or rehabilitation program as an alternative to discharge. In the event notice is not provided to the supervisor and the employee is deemed to be incapable of working safely, the employee will not be permitted to work and will be subject to disciplinary action, including dismissal from employment. In accordance with the Federal Drug-Free Workplace Act of 1988, if the City is receiving federal grants or contracts of over \$25,000, the City will notify the appropriate federal agency of such conviction within 10 days of receiving notice from the employee.

Failure to Disclose Lawful Controlled Substance

Employees taking a lawful controlled substance, including prescription and over-the-counter controlled substances, which may impair their ability to perform their job responsibilities or pose a safety risk to themselves or others, must advise their supervisor of this before beginning work. It is the employee's responsibility to seek out written information from his/her physician or pharmacist regarding medication and any job performance impairment and relay that information to his/her supervisor. In the event of such a disclosure, the employee will not be authorized to perform safety-sensitive functions.

Pursuant to the requirements of the Drug-Free Workplace Act of 1988, all City employees, as a condition of continued employment, will agree to abide by the terms of this policy and must notify the City Administrator of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction. If required by law or government contract, the City will notify the appropriate federal agency of such conviction within 10 days of receiving notice from the employee.

¹³ Minn. Stat. § 181.953, subd. 6.



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Consequences for Employees Engaging in Prohibited Conduct

Job Applicants

The City’s conditional offer of employment will be withdrawn from any job applicant who refuses to be tested or tests positive for illegal drugs as verified by a confirmatory test.

Employees

- No Adverse Action without Confirmatory Test
 The City will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee based on a positive test result from an initial screening test that has not been verified by a confirmatory test.¹⁴
- Suspension Pending Test Result
 The City may temporarily suspend a tested employee with or without pay, or transfer that employee to another position at the same rate of pay pending the outcome of the requested confirmatory retest, provided the City believes that it is reasonably necessary to protect the health or safety of the employee, co-employees, or the public. The employee will be asked to return home, and will be provided appropriate arrangements for return transportation to his or her residence. An employee who has been suspended without pay will be reinstated with back pay if the outcome of the requested confirmatory retest is negative.¹⁵
- Discipline and Discharge:

Confirmatory Positive Test Result:¹⁶

The City will not discharge an employee for a first confirmatory positive test unless the following conditions have been met:

- The City has first given the employee an opportunity to participate in either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the City after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency. Participation by the employee in any recommended substance abuse treatment program will be at the employee’s own expense or pursuant to the coverage under an employee benefit plan. The certified chemical use counselor or physician trained in the diagnoses and treatment of chemical dependency will determine if the employee has followed the rehabilitation program as prescribed; and
- The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a refusal to test or positive test result on a confirmatory test after completion of the program.

Other Misconduct

Nothing in this policy limits the right of the City to discipline or dismiss an employee on grounds other than a positive confirmatory test result, including conviction of any criminal drug statute for a violation occurring in the workplace or violation of other City personnel policies.



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- Emergency Call Back to Work Provisions
 If an employee is called out for a City emergency and he or she reports to work and is suspected of being under the influence of drugs or alcohol, he or she will not be subject to the testing procedures of this policy, but may be subject to discipline and will not be allowed to work. Appropriate arrangements for return transportation to the employee’s residence will be made. It is the sole responsibility of the employee who is under the influence of alcohol and/or drugs and who is called out for a City emergency, to notify his or her supervisor of this information and advise if he or she is unable to respond to the emergency call back.

Non-Discrimination

The City’s policy on work-related substance abuse is non-discriminatory in intent and application; however, in accordance with Minn. Stat., Chapter 363, disability does not include conditions resulting from alcohol or other drug abuse which prevents an employee from performing the essential functions of the job in question or constitutes a direct threat to property of the safety of individuals.

Furthermore, the City will not retaliate against any employee for asserting his or her rights under this policy.

City’s Employee Assistance Program

The City has in place a formal employee assistance program (EAP) to assist employees in addressing serious personal or work-related problems at any time. The City’s EAP provides confidential, cost-free, short-term counseling to employees and their families. Employees who may have an alcohol or other drug abuse problem are encouraged to seek assistance before a problem affects their employment status.

Policy Contact for Additional Information

If you have any questions about this policy or the City’s drug and alcohol testing procedures, you may contact your immediate supervisor or Human Resources to obtain additional information.

By this policy, the City of Northfield has established a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace and its policy of maintaining a drug-free workplace. Each City employee will receive a copy of this policy and will be required to read it.

Definitions

Alcohol:

The intoxicating agent in beverage alcohol or any low molecular weight alcohols such as ethyl, methyl, or isopropyl alcohol. The term includes but is not limited to beer, wine, spirits, and medications such as cough syrup that contain alcohol.

Alcohol use or usage:

The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Applicant:

A person applying for a job with the City.

¹⁴ Minn. Stat. § 181.953, subd. 10.

¹⁵ Minn. Stat. § 181.953, subd. 10.

¹⁶ Minn. Stat. § 181.953, subd. 10.



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City:
The City of Northfield.

City Premises:
All City job sites and work areas. For the purposes of this policy, City premises also includes any other locations or modes of transportation to and from those locations while in the course and scope of employment of the City.

City Vehicle:
Any vehicle which employees are authorized to use solely for City business when used at any time; or any vehicle owned or leased by the City when used for City business.

Collection Site:
A place designated by the City where job applicants and employees present themselves for the purpose of providing a specimen of their urine and/or blood to be analyzed for the presence of controlled substances and alcohol.

Confirmatory Test:
A controlled substance or alcohol test on a sample to substantiate the results of a prior controlled substance or alcohol test on the same sample, and that uses a method of analysis allowed under one of the programs listed in Minn. Stat. § 181.953, subd. 1.

Drug:
Has the same meaning as “controlled substance” defined in Minn. Stat. § 152.01, subd. 4.

Drug and Alcohol Testing:
An analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. § 181.953, subd.1, for the purpose of measuring their presence or absence of drugs, alcohol, or their metabolites in the sample tested.

Drug Paraphernalia:
As set forth in Minn. Stat. § 152.01, subd. 18.

Employee:
A person who performs services for compensation for the City and includes independent contractors except where specifically noted in this policy.

Initial Screening Test:
A drug or alcohol test that uses a method of analysis under one of the programs listed in Minn. Stat. § 181.953, subd. 1.

Job Applicant:
A person who applies to become an employee of the City, and includes a person who has received a job offer made contingent on the person passing drug testing.

Positive Test Result:
A finding of the presence of alcohol, illegal drugs, or their metabolites that exceeds the cutoff levels established by the City. Minimum threshold detection levels are subject to change as determined in the City’s sole discretion.



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Random Selection Basis:

A mechanism for selection of employees that (1) results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected, and (2) does not give an employer discretion to waive the selection of any employee selected under the mechanism.

Reasonable Suspicion:

A basis for forming a belief based on specific facts and rational inferences drawn from those facts.

Safety-Sensitive Position:

A job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person.

Under the Influence:

Either (1) the employee tests positive for alcohol or drugs, or (2) the employee's actions, appearance, speech, and/or bodily odors reasonably cause the City to conclude that the employee is impaired because of illegal drug use or alcohol use.