

<p align="center"><b>CITY OF APPLETON PERSONNEL POLICY</b></p>	<p align="center">TITLE: <b>DRUG FREE WORKPLACE ACT OF 1988</b></p>	
<p>ISSUE DATE: 1988</p>	<p>LAST UPDATE: July 2003 January 2004 May 2005 May 2010 November 2012 <b>September 2015</b></p>	<p>SECTION: Safety</p>
<p>POLICY SOURCE: Human Resources Department</p>	<p>POLICY AUDIENCE: All City Employees</p>	<p>TOTAL PAGES: 6</p>
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I. PURPOSE

The purpose of this policy is to help prevent accidents and injuries resulting from the use or misuse of alcohol or controlled substances by any City employees. This policy is intended to be consistent with and in compliance with the Drug Free Workplace Act of 1988.

II. POLICY

The City is committed to maintaining a drug free workplace for all employees. Employees are expected to report to work free from any substances that could inhibit their ability to perform their duties. The use of illegal drugs on or off duty is prohibited.

Failure to comply with this policy shall lead to disciplinary action up to and including discharge. A discharge for illegal drug use could impact eligibility for benefits under Unemployment Compensation.

III. DISCUSSION

This policy outlines the requirements mandated by the Drug Free Workplace Act of 1988.

IV. DEFINITIONS

Shall – is interpreted to mean required  
Should – is interpreted to mean recommend but not required  
MRO – Medical Review Officer  
EAP – Employee Assistance program

V. PROCEDURES

A. Reporting of Drug Convictions

As a condition of employment, all City employees shall abide by the Drug and Alcohol Free Workplace Policy and notify the City (your immediate supervisor and the Human Resources Director) of any criminal drug statute conviction no later than five (5) days after such conviction.

**B. Prevention and Rehabilitation**

The goals of this policy are prevention and rehabilitation whenever possible, rather than discipline or termination. The City encourages employees who have an alcohol or other drug problem to seek help to deal with their problem. Help is available through the City's Employee Assistance Program. For more details on this program, contact the Human Resources Department.

**C. Leave of Absence Prior to Testing**

An employee shall be permitted to take a leave of absence for the purpose of undergoing treatment pursuant to an approved treatment program for alcoholism or drug use as verified by the City. The leave of absence must be requested prior to the commission of any act subject to disciplinary action, and will be in compliance with City policies.

Employees requesting to return to work from a leave of absence for drug use or alcoholism treatment shall be required to submit to testing without prior notice pursuant to the recommendations made by the City's EAP provider.

A test result confirming the presence of any alcohol or controlled substance or a refusal to submit to any shall lead to disciplinary action up to and including discharge.

**D. Prohibited Conduct for All City Employees**

In conjunction with this policy, the City of Appleton prohibits all employees from engaging in the following conduct:

1. Reporting for duty or remaining on duty while under the influence of alcohol or a controlled substance.
2. Manufacturing, distributing, dispensing, possessing or using a controlled substance, alcohol or drug paraphernalia in the workplace.
3. Deliberately misusing this policy in regard to subordinates.
4. Providing false information in connection with a test, or falsifying test results through tampering, contamination, use of drug masking products, alteration or substitution.
5. Refusing to take a required drug/and or alcohol test.

**E. Drug and Alcohol Testing for All City Employees**

Testing will be conducted in the following situations:

Reasonable Suspicion – In cases in which an employee is acting in an abnormal manner or appears unfit to perform his/her duties in a safe manner and a supervisor has reasonable suspicion to believe the employee is using or is under the influence of alcohol or drugs, the employee shall be taken to a properly authorized testing facility for alcohol and drug testing. Reasonable suspicion means suspicion based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. These observations may include indications of the chronic and withdrawal effects of controlled substances.

- Once an employee has been removed from the job site, the supervisor is to contact the Director of Human Resources. If contact cannot be made at that time, the supervisor is to proceed through the next step of this procedure and make contact with the Human Resources Department as soon thereafter as possible.
- The supervisor is to then take the employee to the collection site for drug and alcohol testing. The supervisor is to wait at the collection site until the test is completed. (Collection sites: Thedacare at Work, 2809 North Park Drive Lane, Appleton, M-F 7:30 a.m. – 4:30 p.m. or Appleton Medical Center Emergency Room)

Type of Testing:

Alcohol – All alcohol tests will be done with the use of the breath test.

Fire Personnel will have a blood alcohol test pursuant to the collective bargaining agreement.

Drug – All drug tests will be conducted through a urine sample.

- If the alcohol test is conducted more than two (2) hours after the supervisor makes such reasonable suspicion determination, the supervisor will complete a report explaining the reason for the delay in conducting the drug or alcohol test.
- Once the drug and alcohol testing has been completed the supervisor is to make arrangements for the employee to be taken home. The employee will not be permitted to drive his/her own car home at that time. The employee may have a family member or a friend (not an on-duty co-worker) pick him/her up or the supervisor may take the employee home.
- The employee will be advised not to report to work. The City will contact the employee once the test results are known (this normally takes 24 to 48 hours) and a decision has been made as to the employee's status.
- The results of the drug and alcohol testing will be sent directly to the Human Resources Department. When the results are obtained, the employee's supervisor and department head will meet with Human Resources to determine the appropriate course of action to be taken.
- Once the test has been completed and the employee has been taken home, the supervisor must complete an "Observed Behavior Reasonable Suspicion Record" (Exhibit #1). This document is to be completed in carbon form and can be obtained from the Human Resources Department. The "Observed Behavior Reasonable Suspicion Record" must be done prior to receiving the test results and within 24 hours of the testing.
- ~~Post Accident – Employees who are operating a motor vehicle or City equipment and are involved in an accident may be required to submit to testing based on the circumstances.~~

## F. Prescription Drugs

1. Before performing work-related duties, employees must notify their supervisor in writing (Exhibit 2) if they are taking any legally prescribed medication, therapeutic drug, or any non-prescription drug which contains any measurable amount of alcohol or which carries a warning label that indicates the employee's mental functioning, motor skills or judgment may be adversely affected by the use of this medication. This

notification (Exhibit 2) must be signed by the employee and his/her physician and is to be filed by the supervisor with the Human Resources Department. This notification may be shared with the City's occupational health provider.

2. A legally prescribed drug is one where the employee has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. The prescription must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing City business is prohibited by City policy.

#### G. Confidentiality of Records

1. The City respects the confidentiality and privacy rights of all of its employees. Accordingly, the results of any test administered under this policy and the identity of any employee participating in the City's EAP or other assessment or treatment program will be communicated to the department director and supervisor but not to anyone else except as required by law. The City will release an employee's records as directed by the expressed written consent of the employee authorizing release to an identified person. The lab or testing agency will disclose information related to a drug or alcohol test of an individual to the City's Human Resource Department. The City may disclose this information to the employee or to the decision maker in a lawsuit, grievance or other proceeding by or on behalf of the individual which arises from any action taken in response to a drug or alcohol test; or as required by law, including court orders or subpoenas.
2. The Medical Review Officer (MRO) will not reveal individual test results to anyone, except the City of Appleton Human Resources Department, unless the MRO has been presented with a written authorization from the tested employee.
3. All records related to drug and alcohol tests of individual employees will be maintained in medical files separate from the employee's personnel file. These records will be stored in a locked cabinet and access will only be allowed to those City employees who have a legitimate need to review the records of a particular employee.

**EXHIBIT 1**

**OBSERVED BEHAVIOR**

**REASONABLE SUSPICION RECORD**

**NAME:**

**DATE OBSERVED:**

**ADDRESS OF INCIDENT:**  
Street \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**TIME OBSERVED:**  
FROM \_\_\_\_\_ a.m. p.m.  
TO \_\_\_\_\_ a.m. p.m.

Record employee observed behavior for reasonable suspicion for the use of alcohol or controlled substances. According to 49 CFR §382.307 Reasonable Suspicion Testing, the employer shall require the driver to submit to a controlled substance or alcohol test if a supervisor or company official who is trained in accordance with §382.603 determines that reasonable suspicion exists.

<b>Reasonable suspicion determined for:</b>		<input type="checkbox"/> <b>Alcohol</b>	<input type="checkbox"/> <b>Drugs</b>	
<b>Mark items that apply and describe specifics</b>				
<b>1. WALKING/BALANCE:</b>	_____ Stumbling	_____ Staggering	_____ Falling	_____ Unable to Stand
	_____ Swaying	_____ Unsteady	_____ Holding on	_____ Rigid
	_____ Sagging at knees	_____ Feet wide apart		
<b>2. SPEECH:</b>	_____ Shouting	_____ Whispering	_____ Slow	_____ Rambling
	_____ Slurred	_____ Slobbering	_____ Incoherent	
<b>3. ACTIONS:</b>	_____ Resisting communications	_____ Insulting	_____ Hostile	_____ Drowsy
	_____ Fighting/insubordinate	_____ Profanity	_____ Threatening	_____ Erratic
	_____ Hyperactive	_____ Crying	_____ Indifferent	
<b>4. EYES:</b>	_____ Bloodshot	_____ Watery	_____ Dilated	_____ Glassy
	_____ Droopy	_____ Closed	_____ Wearing Sunglasses	
<b>5. FACE:</b>	_____ Flushed	_____ Pale	_____ Sweaty	
<b>6. APPEARANCE/CLOTHING:</b>	_____ Disheveled	_____ Messy	_____ Dirty	_____ Partially dressed
	_____ Having odor	_____ Stains on clothing		
<b>7. BREATH:</b>	_____ Alcoholic odor	_____ Faint alcohol odor	_____ No alcohol odor	_____ Marijuana odor
<b>8. MOVEMENTS:</b>	_____ Fumbling	_____ Jerky	_____ Slow	_____ Nervous
	_____ Hyperactive			
<b>9. EATING/CHEWING:</b>	_____ Gum	_____ Candy	_____ Mints	_____ Tobacco
	_____ Other			

Other observations: \_\_\_\_\_

Did employee admit to using drugs or alcohol? \_\_\_\_\_ Yes \_\_\_\_\_ No

When: \_\_\_\_\_ Substance: \_\_\_\_\_

How much: \_\_\_\_\_ Where taken: \_\_\_\_\_

WITNESSED BY:

\_\_\_\_\_  
Signature Title Preparation Date Time \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
Signature Title Preparation Date Time \_\_\_\_\_ a.m./p.m.

THE ALCOHOL TEST MUST BE ADMINISTERED WITHIN EIGHT HOURS FOLLOWING A REASONABLE SUSPICION DETERMINATION.

**EXHIBIT 2**

**CITY OF APPLETON MEDICATION REPORTING FORM**

Date: \_\_\_\_\_

Employee Name: \_\_\_\_\_ Department: \_\_\_\_\_

<b>Drug Name</b>	<b>Dose</b>	<b>Anticipated Length/Period of Authorization</b>

Employee Name is able to safely perform a safety sensitive function/job while taking the medication/dose noted above.

Employee Name is not able to safely perform a safety sensitive function/job while taking the medication/dose noted above.

I have discussed the nature of my work with my physician.

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

Physician Signature \_\_\_\_\_ Date \_\_\_\_\_  
(the physician signature is not needed for over the counter medications)

This notification may be shared with the City's occupational health provider.