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## ADMINISTRATIVE STANDARD HR-011

# Alcohol and Drug Administrative Standard

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**AUTHORITY FOR STANDARD:** Director, Human Resources

**Last Updated:** October 2018

### Standard

THE CITY OF WINNIPEG IS COMMITTED TO PROVIDING A SAFE, HEALTHY AND PRODUCTIVE WORKPLACE WHERE EMPLOYEES AND THE GENERAL PUBLIC ARE PROTECTED FROM THE EFFECTS OF SUBSTANCE USE AND CHEMICAL IMPAIRMENT.

EMPLOYEES ARE EXPECTED TO PERFORM THEIR WORK DUTIES SAFELY, COMPETENTLY AND EFFICIENTLY, WITHOUT IMPAIRMENT ARISING FROM SUBSTANCE USE OR THE AFTER-EFFECTS OF SUBSTANCE USE.

### PURPOSE AND OBJECTIVE

Impairment through the use of substances can affect the ability of employees to perform their assigned duties and meet employment obligations. Impairment can lead to incidents causing serious injury or damage to property. This Administrative Standard establishes expected behaviour as it relates to the use of substances in the workplace.

This Administrative Standard respects the dignity and privacy of individuals and places priority on awareness, education, early detection and treatment and support.

### SCOPE

This Standard applies to:

1. The workplace which is defined as:
  - a) Any building, building site, workshop, structure, mobile vehicle, or any other premises or location whether indoors or outdoors in which one or more workers, or self-employed persons, are engaged in work or have worked. (as defined by *The Workplace Safety and Health Act*)
  - b) Vehicles owned/leased by the City of Winnipeg and any private vehicle while being used for City business.
2. All workers including but not limited to employees, contractors, students, volunteers performing duties in a City workplace.

## DEFINITIONS

**CITY OF WINNIPEG BUSINESS** - refers to all business activities, whether conducted on or off City of Winnipeg premises.

**CITY OF WINNIPEG PREMISES** - includes all land, property, structures, installations, offices, job sites, vehicles, and equipment owned, leased, operated or otherwise directly controlled by the City of Winnipeg.

**DRUG** - means a substance, including alcohol, recreational drugs, illicit drugs or prescription/non-prescription drugs, the use of which has the potential to change or adversely affect the way a person thinks, feels or acts. For the purpose of this Administrative Standard, drugs of concern are those that inhibit or impair the ability of a person to safely and productively perform his or her job. The definition of Drug includes:

**ALCOHOL** - means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl.

**PRESCRIPTION/NON-PRESCRIPTION DRUG** - refers to a drug legally obtainable as either an over-the-counter drug or through prescription by a medical professional.

➤ **CANNABIS (MARIJUANA)** - Cannabis contains hundreds of chemical substances, referred to as cannabinoids. Cannabinoids have effects on cell receptors in the brain and body. They can change how those cells behave and communicate with each other. The principal cannabinoids are:

- **THC** - THC is responsible for the way your brain and body respond to cannabis, including the high and intoxication. THC has some therapeutic effects but it also has harmful effects. Harmful effects may be greater when the strength of THC is higher.

**CBD** - Unlike THC, CBD does not produce a high or intoxication.

**ILLICIT DRUG** - means any drug or substance that is not legally obtainable and whose use, sale, possession, purchase or transfer is restricted or prohibited by law (for example, street drugs such as cocaine and prescription drugs obtained without a medical professional's prescription).

**DRUG PARAPHERNALIA** - includes any equipment, product or material that is used or intended for use in concealing a drug or for use in injecting, inhaling, or otherwise introducing a drug into the human body. Devices used for medicinal purposes are not considered drug paraphernalia (e.g. Epipen, diabetes needle).

**EMPLOYEE** - any person employed by the City of Winnipeg including permanent, term, part-time, casual, contract, seasonal, temporary, student.

**EMPLOYER** - is City of Winnipeg, including persons employed or retained who control and direct the work activities of employees. This also includes independent contractors retained by the City of Winnipeg to control and direct work activities of City of Winnipeg employees.

**FITNESS FOR WORK/DUTY** - in the context of this Administrative Standard, means that an employee is mentally, emotionally and physically able to safely and competently perform assigned duties, without any limitations attributable, but not limited to, illness, injury, fatigue, mental stress or the use/or after effects of alcohol or drugs. Final determination of fitness for duty is based on the judgment of the supervisor.

**IMPAIRMENT** – Functional limitations resulting from, but not limited to, illness, injury, fatigue, mental stress or the use/or after effects of alcohol or drugs, which negatively affects the worker’s ability to carry out the requirements of the job in a safe and efficient manner.

**INCIDENT** - is an accident or event where an injury to a person(s) and or damage to equipment has occurred, or is an accident or near miss where the potential existed for damage or injury to occur.

**OCCUPATIONAL HEALTH SERVICES** - refers to the City of Winnipeg Human Resources team which is versed in both physical and psychological aspects of organizational and individual health and wellness. Occupational Health Services responsibilities extend from understanding functional requirements associated with specific job tasks, supporting employees who continue working during their recovery, and assisting individual employees and their managers in the return to work process.

**SAFETY SENSITIVE POSITION** - is one in which job performance requires the employee to be alert, to be physically coordinated, and to exercise good judgment, where impairment could adversely affect job performance and the health, safety and security of the employee, other persons, property, and/or the environment. Any employee who directly supervises an employee in a safety sensitive position will also be considered to work in a safety sensitive position.

**SELF DISCLOSURE** - a process of communication by which one person reveals information about themselves to another concerning impairment, use and/or addiction.

**SUBSTANCE ABUSE** - is the use of illicit drugs, the misuse of prescription and over-the-counter medications, the use of other substances for intoxication, and the non-therapeutic use of other substances. It is the misuse of alcohol or drugs, where impairment by way of ingesting alcohol or drugs could adversely affect job performance, the health, safety or security of the employee, other persons, property, or the environment.

**SUBSTANCE ABUSE PROFESSIONAL** - is a person who has clinical experience in the diagnosis and treatment of alcohol and drug related disorders and makes recommendations concerning education, treatment, follow-up testing and aftercare.

**SUBSTANCE DEPENDENCE** - a pattern of behavioural physiologic and cognitive symptoms that develop due to substance use or abuse.

**SUPERVISOR** - means an individual who is accountable for a particular area or shift, including but not limited to team leaders, managers, directors, supervisors, superintendents, and others acting in supervisory positions.

**VOLUNTEER** - includes anyone attending at any workplace of the City of Winnipeg working as a City of Winnipeg volunteer. For the purpose of this Administrative Standard, a volunteer will be classified as a City of Winnipeg employee.

## WORKPLACE CONDUCT

1. Employees are required to be fit for work throughout their work day. This means being able to perform assigned duties safely, competently and productively without any limitations due to substance use or the after-effects of substance use. Employees must not consume substances that cause impairment prior to reporting for work, during unpaid breaks or at any other time during the work day.
2. Any employee who is or becomes impaired during their work shift must report this to their supervisor immediately.
3. Any employee who has a limitation or restriction on their ability to perform their job, or who is prescribed medical treatment, which has, or may, adversely affect their abilities, must report such limitations or restrictions to their immediate supervisor.
4. Employees must not consume, possess, distribute, offer for sale or sell alcohol, illicit or recreational drugs in the workplace.
5. At no time should any individual, who is identifiably a COW employee (i.e. uniform, employee name badge, etc.) purchase and/or consume personal alcohol or illicit or recreational drugs. Employees, when on City business, may use alcohol responsibly: after work when on travel status, at the conclusion of a training event/seminar, when attending or hosting an event which involves alcohol or in other similar situations when appropriate, provided the employee is not also on duty, or on-call, or going on-duty; the formal business of the day has been fully completed, and alcohol is not consumed to the point of intoxication.
6. Employees must not transport personal alcohol or illicit or recreational drugs in vehicles, or in equipment owned, leased or operated by the City of Winnipeg. Employees must not transport personal alcohol or illicit or recreational drugs in vehicles operated during City of Winnipeg business.
7. Employees must submit to substance testing when required by this Administrative Standard.
8. All employees share a responsibility for reporting any violations of this Administrative Standard.

Employees who fail to meet the requirements of this Administrative Standard may be subject to corrective action, which may include discipline, up to and including termination of their

employment. The imposition and degree of discipline will be determined on an individual, case by case basis, taking into account all relevant factors and circumstances.

## SUPPORTIVE EMPLOYMENT

### LEADERSHIP

- Early Recognition and Monitoring

The City recognizes the benefits of early identification and prompt treatment of substance dependency. Substance dependency usually affects work behaviour in the following ways; tardiness, absenteeism, noticeable difference in behaviour/attitude, inability to concentrate, carelessness with appearance, inattention to job duties, conflicts with co-workers, mood swings, sloppy work, failure to meet deadlines, and isolation from co-workers.

Supervisors play a crucial role in the administration of this Standard and will be required to monitor compliance with the expectations outlined:

- a) Monitor and evaluate work performance with the goal of early identification of performance problems including those that may be caused by alcohol or drug use.
- b) Engage employees in addressing performance problems through verbal discussion, progressive discipline if necessary, or with the assistance of those staff responsible for the Disability Management process.
- c) Remind employees of the availability of EAP.

- Determining Impairment

If a supervisor suspects that an employee is impaired, decisions about whether an employee is actually impaired must be based on observations of that employee's conduct in the workplace and their ability to perform their work-related duties. It is important that supervisors do **not** make decisions based on **assumptions** about the use of a substance and its impact on ability. On its own, information about the consumption of an impairment-causing substance, or whether it has been consumed for non-medical or medical purposes, will not determine whether an employee is impaired or not.

### EDUCATION

The City will educate and inform employees with respect to the signs and symptoms, the impact of problematic substance use in the workplace and the existence and effect of this Administrative Standard.

The City will also educate employees about the confidential Employee Assistance Program (EAP) and the process for accessing the service.

### AWARENESS

The City will distribute and communicate this Administrative Standard to all employees and contractors. Targeted information and resources on the risks associated with working while under the influence of alcohol or drugs will be provided. This approach will assist supervisors in the development of a workplace safety culture where workers recognize and demonstrate appropriate behaviours.

The City of Winnipeg will also provide information about services, programs and assistance available either at the workplace or by external agencies for workers seeking support.

## **EMPLOYEE WELLNESS**

The City of Winnipeg is committed to provide proactive, supportive assistance to their employees. This responsibility includes the expectation that all employees are guaranteed a safe and healthy work environment as well as ensuring that medical accommodation needs are met.

The City is prepared to assist an employee that voluntarily discloses a dependency. No employee with a substance dependency will be disciplined for voluntarily requesting help in overcoming the dependency, prior to a violation of this Administrative Standard. Accessing assistance or declaring a problem does not eliminate the requirement for compliance with this Standard.

Where a medical professional, a substance abuse expert, or other counselling professional advises that there is a risk that an employee is unable to perform their job safely, the employee will be removed from duty until they are able to safely return to work. In the situation that the employee requires a medical accommodation, the employer will endeavour to meet the requirements provided by the medical professional.

### Prescription/Non-prescription Medications

Employees are expected to consult with their physician or pharmacist to determine if medication use will have any potential negative effect on job performance.

#### Initial Disclosure:

Employees are required to report to their supervisor if there is any potential risk, limitation or restriction that may require a modification of duties or reasonable accommodation. Due to privacy considerations, details of the medications or the diagnosis should not be disclosed to the employer.

Alcohol, recreational drugs, illicit drugs and the following substance categories have been associated with performance impairment (motor skills, balance, memory, judgment, inappropriate behaviour) and are provided as a guideline:

- Antihistamines - allergies
- Motion sickness drugs – to prevent motion sickness and nausea
- Barbiturates – prescribed as sedatives, hypnotics, tranquilizers, or antidepressants
- Narcotics – pain management
- Stimulants – central nervous system stimulation or appetite suppression
- Anticonvulsants – to control seizures

- Analgesics – pain management
- Cold tablets and cough mixtures
- Muscle Relaxants
- Cannabis (Marijuana) – pain management and relaxant

The above list is not exhaustive. There are many other over the counter and prescription substances which, when taken, may have a negative impact on performance.

### **Duty to Accommodate**

The [Duty to Accommodate](#) is a legal obligation of the employer and the union when it is determined that there is a requirement to accommodate an employee. All requests for accommodation will be considered in a fair and objective manner that will ensure employees are treated with respect and dignity; [Reasonable Accommodation Administrative Standard](#).

After a request to accommodate is made, the employee will be required to participate in the following assessment process:

- Provide medical documentation outlining any medical restrictions and limitations due to illness or injury that causes a need for accommodation,
- There will be a focus on what the employee can do in order to assist with a return to the workplace as soon as reasonably and safely possible.
- Additional medical may be requested to determine the employee’s ability to work, or to ask opinion on what would be an appropriate accommodation
- In the event of substance dependency or addiction, additional steps may be taken to ensure the safety of the employee, others, the public and the workplace.

The Disability Management team will work with the employee, department supervisor, Union Representative, and Human Resources to manage the accommodation process. Accommodations requests are ongoing and require employee cooperation.

### **Confidentiality**

An employer who collects, maintains, or uses personal health information is required to protect the confidentiality of that information, unless where limited disclosure is necessary for related accommodation, legal requirements, investigations, and/or health and safety concerns.

### **Roles and Responsibilities**

#### **Shared Responsibility**

There is a shared responsibility for the successful implementation of this Administrative Standard. The City will provide its employees with access to assistance programs in a way that ensures confidentiality, fairness and respect for the individual. The Managers will act reasonably and fairly in dealing with any issues related to this Administrative Standard. The Union will support the employee with representation. The employee has the responsibility to disclose a substance issue, to attain the help needed, to comply with requirements for return to work, and cooperate with those involved to support a healthy and safe workplace.

## **Employees**

Employees are required to be fit for work before and throughout their work day. This means being able to perform assigned duties safely, competently and productively without any limitations due to substance use or the after-effects of substance use. Employees must not consume substances that cause impairment prior to reporting for work, during unpaid breaks or at any other time during the work day.

Employees must disclose any conditions that would impair their ability to perform the job. As required, employees are expected to participate in any work accommodations, treatment or follow-up care to prevent recurrence or relapse.

In addition, an employee must recognize that problems related to substance use or dependency does not excuse inappropriate behaviour or unsafe work performance.

## **Supervisors**

Supervisors must communicate with employees about the need to maintain a workplace that is free from substance use.

Early and regular identification and management of performance issues related to substance use is essential. If an employee's work performance has deteriorated to an unacceptable level or their actions jeopardize health and safety, supervisors are responsible for taking appropriate action.

Employees must disclose any conditions or concerns, including substance use/dependency that might impair their job performance or compromise health and safety. In addition, supervisors must identify and address any situation where an employee appears to be impaired and may be unable to perform their job in a safe, competent or efficient manner.

As a supervisor, if you have any reason to believe that an employee is under the influence of a substance in the workplace, it is your responsibility to immediately address the situation to protect the employee, coworkers or the public. Supervisors must prohibit, without exception, the operation of a motor vehicle, machinery, or law enforcement weapon(s) by an employee who appears to be impaired. Supervisors have the ability to access private drug testing should they have reasonable suspicion to do so.

## **Human Resources**

Human Resources will facilitate and support a confidential, safe, healthy and productive return to work process for all employees. In support of this process, Human Resources will maintain confidentiality except where limited disclosure is necessary for related health and safety concerns.

Human Resources will actively support all employees in the administration and application of this Administrative Standard and ensure communication to all employees. Human Resources will oversee any investigation in accordance with this Administrative Standard, ensure all pertinent documentation is compiled, and resolve incidents in an impartial and objective manner. Where required, Human Resources will engage Labour Relations to discuss appropriate measures.



## REFERENCES AND LINKS TO RELATED PROCEDURES

[HR – 002 Respectful Workplace Administrative Standard](#)  
[HR – 005 Reasonable Accommodation Administrative Standard](#)  
[HR – 015 Workplace Violence Prevention Administrative Standard](#)  
[Employee Assistance Program \(EAP\)](#)  
[The Human Rights Commission – Duty to Accommodate Code of Conduct](#)  
[Drivers License Protocol](#)  
[Workplace Safety Incidence Protocol](#)

## REVIEW PROCESS

We commit to updating our Administrative Standard as more information is known, and as research becomes available.

The Manager, Safety, Health and Occupational Wellness in consultation with the HR Director is accountable for implementing and reviewing this Administrative Standard. The CAO approves amendments to this Administrative Standard which is to be reviewed every six months.

## KEY CONTACTS

Department Supervisor  
Department Manager  
Manager, Human Resources (Department)  
Manager, Safety, Health and Occupational Wellness  
Manager Labour Relations  
Department Directors  
Director, Human Resources

## APPENDICES

Appendix A - Investigation Process  
Appendix B – Substance Testing

## **Appendix A:**

### **INVESTIGATION PROCESS**

Supervisors are responsible for managing the performance and well-being of the people within their work unit. As a supervisor, dealing with situations involving alcohol and/or drugs can be uncomfortable. If you know of a safety risk or are informed of a potential safety risk, you must address the concern. Ignoring, minimizing or hoping things will get better are not options. It is your responsibility to take action.

**Reasonable Suspicion:** Reasonable suspicion is based upon the employee's conduct observed by a person in a supervisory capacity. The supervisor may come upon this knowledge firsthand or may be advised by a person that has observed the employee in a state that gives rise to reasonable suspicion.

The determination that "reasonable suspicion/cause" exists must be based on specific direct (at the time), factual observations concerning the appearance, behaviour, speech or body odours of the employee. Circumstances that might trigger reasonable suspicion investigation include, but are not limited to the following:

- Accidents
- Injuries
- Alcohol odour on breath or person
- Cannabis odour on breath or person
- Glassy eyes
- Unsteady gait
- Disorientation and/or erratic behaviour
- Slurred or impaired speech
- Unexplained tremors
- Possession of alcohol, drugs and/or accessories thereof
- Impaired judgment, decision making or delayed reaction

If a supervisor has reasonable cause to believe that an employee is under the influence of, or has been using substances while on duty; either from direct observation or as a result of reports from witnesses the process is as follows:

- 1) The primary supervisor shall immediately contact their Supervisor and/or Human Resources to assist (ie: second resource) in performing an assessment based on reasonable suspicion.

The Union Representative will also provide support, additional to the primary supervisor and secondary resource. As Union Representatives are not always immediately available, the primary and secondary resources should proceed with the meeting in a proficient and expedient manner.

- 2) If the supervisor has any questions or concerns prior to meeting with the employee, Human Resources is a primary resource for consultative guidance and support.
- 3) Approach the employee in a safe respectful manner. Remove the employee to a private and safe location and seek the explanation for the behaviour you have

observed, share the behavior you notice. Ask the employee if he or she has consumed alcohol, has taken drugs, or is on any medication.

- 4) Document the conversation with the employee. If impairment is suspected, then an assessment needs to be undertaken. A reasonable assessment should consist of:

**5 factors** must be considered to determine if there are reasonable grounds for impairment:

- 1) **Impairment:** Are there facts to indicate that the employee has shown a form of impairment? Is there a change in physical appearance, behaviour, actions or work performance?
  - 2) **Reliable Facts:** Are the facts reliable? Did you witness a situation personally or are you sure that the witness(es) is (are) reliable and have provided first-hand information? A written statement from each witness should be collected, signed and dated.
  - 3) **Reasonable Facts:** Are the facts able to be explained? Would you be able to describe the observations to another person who does not know the people involved?
  - 4) **Documentation:** Gather all necessary supporting evidence. Can the dates, times, names, location be documented?
  - 5) **Timeliness:** Is the impairment situation current, today, while on the job or on company property? Is this a repeated or ongoing situation?
- 5) The supervisor shall call the Winnipeg Police Service (WPS) if an illegal controlled substance or paraphernalia is in plain view. The supervisor will take possession of any substance (and accessories thereof) that is easily accessible. Do not attempt to confiscate items off an employee. An inventory of items will be documented (ie: photographs) prior to the removal and witnessed (where possible) by the supervisor and then placed in a secure location until Police arrival.
  - 6) If the primary supervisor and secondary resource (often HR) suspects impairment they will inform the employee of next steps depending on the situation. If the employee is able to understand, they should be advised that they will be sent home or they could be subject to reasonable suspicion impairment testing.
  - 7) Once the investigation is complete, the supervisor with the assistance of Human Resources, will need to make a determination whether the employee is fit to remain in the workplace. If it is decided the employee should not stay at work due to impairment, arrangements need to be made to get the employee home safe. For the safety of the staff member and the public, we cannot allow an employee to drive impaired. For safety reasons we cannot encourage a supervisor, or any employee, to drive an impaired person home. We can call family or a friend to pick them up, or for a taxi to drop them off. In the event they need emergency medical assistance you can also call an ambulance.
  - 8) If the employee insists on driving home, the supervisor shall inform the employee that they are required to call the Winnipeg Police Service (WPS). They will identify the employee's location, their name, the vehicle and license plate number if known

## **Appendix B:**

### **SUBSTANCE TESTING**

The following summarizes the circumstances in which substance testing is employed:

#### **REASONABLE SUSPICION: SAFETY SENSITIVE POSITIONS**

The safety risk associated with an employee's incapacity due to drug or alcohol impairment is directly related to the nature of the work being performed. Understanding the potential consequences of impairment relative to the safety aspects of a position is critical to managing drug and alcohol concerns in the workplace.

For *safety sensitive* positions, the supervisor will follow the steps outlined in Appendix A. If, after assessment, there is agreement between the supervisor and the Human Resources representative regarding impairment, the employee will be escorted to a testing facility.

If the employee refuses to comply with testing, they will be informed that their refusal may be subject to disciplinary action for non-compliance with this Administrative Standard. A refusal is considered an automatic positive test.

After the employee has completed the test, the employee will be informed of the results. If the results determine non-compliance with this Administrative Standard, the employee shall be immediately placed on leave, pending further internal review. If the test results indicate that there has been no violation with this Administrative Standard, the employee will be advised that the investigation is concluded and that no further consequences will be forthcoming.

Where testing has been deemed necessary, the supervisor shall make arrangements to transport the employee to the testing facility. The employee will not be allowed to drive themselves to the testing facility. Where the test has yielded a violation of this Administrative Standard, the supervisor will make arrangements to transport the employee home. Should the supervisor elect to drive the employee home, a secondary resource must accompany the supervisor. A taxi is also an option.

#### **REASONABLE SUSPICION: POST-ACCIDENT / INCIDENT TESTING**

The City may request an employee performing work related functions to submit to a substance test after an accident/incident to rule out impairment as a potential cause where one or more of the following occurs:

- Bodily injury (to self or others) requiring medical attention
- Damage to City property or equipment
- Possible exposure to legal action or liability
- Environmental damage
- A near miss that may have resulted in any of the above

Prior to requiring the employee to undergo a post-accident/incident test, the City must conduct a thorough investigation (Appendix A). Investigation protocol will be followed depending on the

nature of the investigations being done.

### **RETURN TO WORK / AFTERCARE TESTING**

Prior to the employee's return to the workplace, Occupational Health Services will review the employee's recommended aftercare program to ensure that it corresponds with the health and safety requirements of the position. In all cases, employees will be advised of the conditions governing their return to work and the consequences of failing to meet those conditions.

### **SUPPORT TO EMPLOYEES**

At any point during a staff members employment they can disclose and/or ask for support if they feel they are dealing with a dependency or addiction issue related to the Administrative Standard. We are committed to helping staff members get the help they need and we encourage disclosure before any negative events take place in the workplace.