

AN ORDINANCE AMENDING THE ROSE HILL "UNIFORM POLICIES AND GUIDELINES FOR THE CITY OF ROSE HILL" (EMPLOYEE POLICIES AND GUIDELINES) TO AMEND THE CITY EMPLOYEE DRUG TESTING PROGRAM.

BACKGROUND: The City established in 2015 a personnel advisory group comprised of employees from every department and charged with a comprehensive review of the City's personnel policy. The group is working through a list of identified problems and policy deficiencies and presenting solutions to the City Council for consideration. The drug testing program was identified as inconsistent and not clear. The group's recommendation is to amend the policy to improve consistency and add clarity.

ACTION: BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ROSE HILL, KANSAS:

Section 1: Article D shall be replaced and amended to read as follows:

ARTICLE D. DRUG TESTING

D-1 Statement of Policy.

The City of Rose Hill is concerned with, and committed to, the general health and welfare of its employees, the safety of those employees at their work place, and the protection of property and persons that come into contact with the city employees. The Governing Body is further concerned with maximizing the potential and productivity of all employees, and desires to promote efficiency by detecting those whose abuse of alcohol or drugs poses a risk of diminished job performance.

D-2 Work Rules.

Employees should report to work fit for duty and free of any adverse effects of illegal drugs or alcohol. This policy does not prohibit employees from the lawful use and possession of prescribed medications. Employees must, however, consult with their doctors about the medications' effect on their fitness for duty and ability to work safely, and they must promptly disclose any work restrictions to their supervisor. Employees should not, however, disclose to the City underlying medical conditions unless directed to do so.

1. Whenever employees are working, are operating any City of Rose Hill vehicle, are present on City of Rose Hill premises or are conducting city-related work offsite, they are prohibited from:
 - a. Using, possessing, buying, selling, manufacturing or dispensing an illegal drug (to include possession of drug paraphernalia).
 - b. Being under the influence of alcohol or an illegal drug as defined in this policy.

- c. Possessing or consuming alcohol.
- 2. The presence of any detectable amount of any illegal drug or illegal controlled substance in an employee's body system, while performing city business or while in a city facility, is prohibited.
- 3. The City of Rose Hill will also not allow employees to perform their duties while taking prescribed drugs that are adversely affecting their ability to safely and effectively perform their job duties. Employees taking a prescribed medication must carry it in the container labeled by a licensed pharmacist or be prepared to produce it if asked.
- 4. Any illegal drugs or drug paraphernalia will be turned over to an appropriate law enforcement agency and may result in criminal prosecution.

D-3 Persons Who May Require Testing.

The City Administrator, or a department head with the City Administrator's approval, may require that an employee that he or she supervises to submit to drug testing under the circumstances stated in Section D-4.

D-4 Circumstances Where Drug-Testing May be Required.

The person authorized by Sections D-2 and D-3 above may require drug testing under the following circumstances:

- a. **Pre-employment.** All applicants must pass a drug test before beginning work or receiving an offer of employment. Refusal to submit to testing will result in disqualification of further employment consideration.
- b. **Post-accident.** Employees are subject to testing when they cause or contribute to accidents that seriously damage a City of Rose Hill vehicle, machinery, equipment or property or result in an injury to themselves or another employee requiring offsite medical attention in which there is a reasonable basis for concluding that drug use could have contributed to the incident. A circumstance that constitutes probable belief will be presumed to arise in any instance involving a work-related accident or injury in which an employee who was operating a motorized vehicle is found to be responsible for causing the accident. In any of these instances, the investigation and subsequent testing must take place within two hours following the accident, if not sooner. *Under no circumstances will the employee be allowed to drive himself or herself to the testing facility.*
- c. **Follow-up.** Employees who have tested positive, or otherwise violated this policy, are subject to discipline, up to and including discharge. Depending on the circumstances and the employee's work history/record, the City may offer an employee who violates this policy or tests positive the opportunity to return to work on a last-chance basis pursuant to mutually agreeable terms, which could include follow-up drug testing at times and

frequencies determined by the City for a minimum of one year but not more than two years as well as a waiver of the right to contest any termination resulting from a subsequent positive test. If the employee either does not complete the rehabilitation program or tests positive after completing the rehabilitation program, the employee will be subject to immediate discharge from employment.

- d. Consequences.** Applicants who refuse to cooperate in a drug test or who test positive will not be hired and will not be allowed to reapply/retest in the future.

Employees who refuse to cooperate in required tests or who use, possess, buy, sell, manufacture or dispense an illegal drug in violation of this policy will be terminated. *If the employee refuses to be tested, yet the City believes he or she is impaired, under no circumstances will the employee be allowed to drive himself or herself home.* The first time an employee tests positive for alcohol or illegal drug use under this policy, the result will be discipline up to and including discharge.

Employees will be paid for time spent in alcohol or drug testing and then suspended with pay pending the results of the drug or alcohol test. After the results of the test are received, a date and time will be scheduled to discuss the results of the test; this meeting will include a member of management/supervision, and the City Administrator.

D-5 Confidentiality.

Information and records relating to positive test results, drug and alcohol dependencies, and legitimate medical explanations should be kept confidential to the extent required by law and maintained in secure files. Such records and information may be disclosed among the City Administrator, department heads, and supervisors on a need-to-know basis and may also be disclosed when relevant to a grievance, charge, claim or other legal proceeding initiated by or on behalf of an employee or applicant.

Section 2: EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its publication in the official newspaper of the City of Rose Hill, Kansas.

Passed and adopted this 15 day of May, 2017.



Beth Pompa
Beth Pompa, Mayor

ATTEST

Kelly Mendoza
Kelly Mendoza, City Clerk

