

CITY OF BOULDER

POLICIES AND PROCEDURES

Alcohol and Drug Use Policy

Effective Date: March 1, 1992

Last Revised: March 16, 2011


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I. POLICY

The City of Boulder is committed to providing a safe, healthy and productive work environment for all employees, free from the effects of alcohol and drugs. Use of alcohol and drugs alters employee judgment, alertness and ability to react resulting in increased safety risks, employee injuries and faulty decision-making.

II. PURPOSE

This policy's purpose is to ensure the safety of employees and the public by prohibiting alcohol and drug use that adversely affects an employee's ability to perform that individual's job duties, or creates a risk to others. In addition, the city recognizes alcohol or drug abuse may result from a treatable condition. Employees who suspect they have alcohol or drug problems are encouraged to seek advice voluntarily and to follow appropriate treatment promptly before it results in job performance problems. (See Attachment A for more information regarding substance dependency, abuse, addiction and treatment.)

III. SCOPE

This policy covers all City of Boulder employees.

Please note the following:

- In addition to this policy:
 - The Boulder Police Department General Order on the subject covers Boulder Police Department employees. Those employees should refer to that document for special provisions governing them.
 - Employees who operate city vehicles or drive on city business should also refer to the Driving, and Conditions of Employment Policies.
 - Employees on paid time in a "stand-by" status must follow the department rules governing that status.
- This policy does not address or supersede the additional requirements of laws and regulations governing operation of a motor vehicle, or for employees whose job descriptions require a Commercial Driver's License (CDL) or who perform safety-sensitive duties, as defined by the Federal Highway Administration (FHWA), a division of the United States Department of Transportation. Employees whose jobs require a CDL or who perform safety-sensitive duties should also refer to the Alcohol and Drug Testing Policy (related to the Department of Transportation regulations).

IV. DEFINITIONS

The following are definitions for the purpose of this policy. These definitions may differ from definitions found elsewhere. For example, the city's definition of "under the influence" is a stricter standard than used under Colorado motor vehicle law.

Alcohol — beer, wine and all forms of distilled liquor containing ethyl alcohol, including over the counter products such as mouthwashes and cold serums.

BAC — blood alcohol content, which is the amount of alcohol absorbed in a person's blood stream, expressed in grams of alcohol per one hundred milliliters of blood as shown by analysis of the person's blood or in grams of alcohol per two hundred ten liters of breath as shown by analysis of the person's breath.

Drugs — any substance taken into the body, except alcohol, that may impair one's mental faculties or physical performance, including, but not limited to substances prohibited or controlled by Colorado or federal laws.

Medical Marijuana — marijuana grown, sold and used legally under Colorado law (including Section 14 of Article XVIII of the Colorado constitution, the Colorado Revised Statutes and the Boulder Revised Code).

Over-the-Counter Drugs — any drugs available to consumers without a prescription. This does not include medical marijuana.

Prescription Drugs — any drug regulated by the Food and Drug Administration that is available only with a written order from a licensed healthcare provider to a pharmacist. This does not include medical marijuana.

Under the Influence — having a BAC of 0.05% or greater, or not having normal use of mental or physical faculties resulting from use of a drug.

V. PROHIBITED BEHAVIOR, EXCEPTIONS AND GUIDELINES

A. Prohibited Behavior

Any of the following is a violation of the policy.

1. Using, buying, possessing, selling, trading, manufacturing, or offering for sale alcohol or drugs:
 - while on city property;
 - while in a city vehicle or vehicle rented with city funds;
 - while in a city uniform with city insignia; or
 - during the employee's work hours;
2. Being at work within four hours of using alcohol;
3. Being at work under the influence.

B. Exceptions

Note: Police Department employees should refer to Boulder Police Department General Orders for other exceptions that apply to this policy.

The following are exceptions to this policy.

1. Possessing or buying over-the-counter drugs or prescription drugs;
2. Using over-the-counter drugs or prescription drugs when taken according to the prescription or manufacturer's directions (see section VII for more information);
3. Buying unopened containers of alcohol during lunch or work breaks;
4. Possessing unopened containers of alcohol for a period of no more than one work shift;
5. Consuming alcohol on city property during off-work hours when and where the consumption of alcohol is otherwise lawful and permitted;
6. Being at work within four hours after using alcohol when called back to work, or contacted during non-work hours, in response to a city emergency; (Employees must use reasonable judgment when evaluating whether they should respond, considering the alcohol they have consumed. Under no circumstances should employees respond if they have reasonable belief they are under the influence. In addition, employees must not violate laws or regulations regarding operation of a vehicle or performing safety sensitive functions, as defined by the FHWA.);
7. Some employees may consume alcohol at work-related events they must attend as part of their official duties. An example would be an evening reception the employee attends as a representative of the City of Boulder. Such use depends on the scope of work performed by the employee and is subject to the approval of the City Manager. However, employees must refrain from consuming alcohol to the extent that it results in behavior that would reflect poorly on the city. This exception does not permit using city vehicles or vehicles rented with city funds while under the influence, as defined by this policy.

VI. ALCOHOL AND DRUG TESTING

Boulder Revised Code, Chapter 12-3, covers drug and alcohol testing of City of Boulder employees and job applicants. For more information regarding test requirements and individual's rights, see Attachment B, which is a copy of Chapter 12-3 in effect when this policy was revised.

VII. EMPLOYEE AND SUPERVISOR RESPONSIBILITIES

A. Employee Responsibilities

Any employee taking over-the-counter drugs or prescription drugs must consult with the prescribing healthcare provider or a pharmacist, or review product information to ascertain whether the medication may interfere with safe performance of that employee's job. If the use could compromise the safety of the employee, other staff or the public, the employee must use appropriate measures (e.g., use paid or unpaid leave, notify the supervisor) to avoid unsafe workplace practices. Department policy may apply additional restrictions to employees. In addition, the City may put employees on FMLA leave, as appropriate. If the employee's sick

leave bank is exhausted, other options include accrued floating holiday or vacation leave, or unpaid medical leave of absence. Authorization for the employee to return to work may be required from a physician. For more information regarding leaves, see the appropriate bargaining group agreement and the following policies: Family Medical Leave Act, Floating Holiday, Paid and Unpaid Leaves of Absences, Sick Leave, or Vacation Leave.

Any employee charged, convicted, or who pleads guilty or no contest under a criminal drug statute for a violation occurring in the work place must immediately notify his or her supervisor. In addition, an employee whose job requires an acceptable criminal background investigation and is charged, convicted, or pleads guilty or no contest under a criminal drug statute for a violation occurring outside the work place must immediately notify his or her supervisor. For information regarding positions that require a criminal background investigation, see the Conditions of Employment Policy.

For employees whose job duties require driving, see also the Driving Policy regarding reporting of a restricted or revoked driver's license.

B. Supervisor Responsibilities

Supervisors are responsible for ensuring the city does not permit illegal manufacture, use or transfer of drugs by a city employee who is on the job or on city property. Any supervisor having reasonable suspicion of such activity must contact the City of Boulder Police Department and the Human Resources Department.

Supervisors are responsible for ensuring, to the extent possible, the following for their employees:

- Employees are free from the disabling effects of drug or alcohol use.
- Employees are able to perform the full scope of their duties without loss of efficiency or increased danger to themselves, coworkers, or the public as a result of drug or alcohol use.

If practical, the supervisor shall contact the Human Resources Department before taking action, and shall permit the employee to talk to a Human Resources Department representative upon request. However, failure to take these actions does not constitute a defense to discipline imposed under this policy.

1. Testing for Alcohol and Drugs

The supervisor must arrange for taking the employee to a city-designated facility for an alcohol and drug test if any of the following occurs:

- a. The employee admits or agrees that she/he is at work under the influence;
- b. The employee denies being at work under the influence, but there is reasonable suspicion based on specific, objective, clearly expressed facts, to believe that the employee is under the influence or his or her job performance is currently adversely affected by use of a drug or alcohol per § 12-3-2 (a), B.R.C.

2. Consequence of Refusal to be Tested for Alcohol and Drugs or to be Taken Home

An employee subject to testing, under 1 above, may refuse to be tested. Under such circumstances, the supervisor should advise employee that:

- The employee will not be allowed to continue working;
- The supervisor will not allow the employee to drive any city vehicle;
- The police will be summoned if the employee makes any attempt to drive any vehicle, including the employee's own vehicle;
- Refusal to be tested may result in disciplinary action, up to and including termination.

For more information regarding guidelines and information for supervisors, see the Attachments A, B, C, and D of this policy, Section V of this policy, and the Boulder Revised Code or any successor ordinance.

VIII. CITY'S RIGHT TO CONDUCT SEARCHES

The city reserves the right to search, without employee consent, all areas and property over which the city has any type of control, including but not limited to City of Boulder: vehicles, desks, lockers, file cabinets, offices, toolboxes, storage rooms and storage areas. The city may notify the Boulder Police Department if it suspects illegal activity on city property, regardless of who has control of the area or property.

For information regarding employees' rights regarding alcohol and drug testing, see Attachment D to this policy.

IX. DISCIPLINARY ACTION

Violation of this policy may result in disciplinary action, up to and including termination of employment. In addition, disciplinary action, up to and including termination, may result if an employee's job performance deteriorates or accidents occur due to the use of alcohol or drugs. For employees whose job duties require driving, see also the Driving Policy regarding a restricted or revoked driver's license.

X. INTERPRETATION AND APPLICATION

Employees who have questions concerning the interpretation or application of this policy, and the attachments, should contact the Human Resources Department.

XI. OTHER POLICIES/EXCEPTIONS/CHANGES

This policy supersedes all prior editions of this policy and conflicting provisions of other policies covering the same or similar topics. Only the Human Resources Director or the City Manager may grant any exception to this policy. The city manager may review and change this policy at any time. This document does not create an employment contract.