

Resolution No. 2014-001

A RESOLUTION ADOPTING AN ADDENDUM TO THE TOWN OF SUGAR CITY PERSONNEL HANDBOOK SETTING FORTH DRUG AND ALCOHOL POLICIES COMPLYING WITH THE FEDERAL DRUG-FREE WORKPLACE ACT OF 1988

WHEREAS, the Federal Drug-Free Workplace Act of 1988 ("Act") mandates that any entity contracting with or receiving grants from the federal government must adopt drug and alcohol policies that comply with the Act and require all employees to comply with the policies as a condition of continued employment; and

WHEREAS, the Board of Trustees of the Town of Sugar City desires to adopt said drug and alcohol policies.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Sugar City as follows.

1. The Drug and Alcohol policies set forth in Exhibit A attached herewith are incorporated in this Resolution as though fully set forth herein and adopted effective immediately.
2. The mayor shall provide each employee with a copy of this Resolution and obtain a signed statement from the employee acknowledging receipt.
3. All prior resolutions are amended or repealed to the extent necessary to conform with this resolution.

Adopted this 5th day of February, 2014 by the Town of Sugar City Board of Trustees.


Robert Petty, Mayor Town of Sugar City

ATTEST:


Town Clerk/Deputy Clerk

ADDENDUM "A" TO THE TOWN OF SUGAR CITY PERSONNEL HANDBOOK

DRUG AND ALCOHOL POLICIES

Adopted by the Town of Sugar City on February 5, 2015

a. Condition of Employment

1. It is a condition of continued employment with the Town of Sugar City ("Town") that each employee comply with the Town Drug and Alcohol policies as set forth in this document.

b. Purpose

1. The Town wants a drug-free, healthy and safe workplace. It is also necessary to comply with 41 U.S.C. 8103, the Federal Drug-Free Workplace Act of 1988 ("Act"), so the Town may certify to federal contracting and granting agencies that the Town ensures a drug-free workplace. Failure to comply with the requirements of the Act could result in suspension of contract or grant payments and/or termination of federal contracts or grants. The Town also has responsibilities and obligations to its customers and citizens to ensure safety at the Town's various job sites and safety on the road. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.

c. Publication

1. This policy shall be distributed to each employee once each year and upon being hired. Each employee receiving a copy of this policy shall sign a receipt for the policy. Additional copies of the policy shall be available upon request of any employee from the town clerk.

d. Definitions

1. "Alcohol" or "Alcohol Beverages" means beer, wine and all forms or distilled liquor containing ethyl alcohol. Reference to use or possession of alcohol includes use or possession of any beverage, mixture, or preparation containing ethyl alcohol.
2. "Drug" means any substance (other than alcohol) that has known mind or function-altering effects on a person, including psychoactive substances and including but not limited to, substances prohibited or controlled by Colorado and/or Federal controlled substances law, marijuana and any inhaled glue, aerosol, or other toxic vapor or vapors, as defined in section 18-18-412, C.R.S.

3. "Impaired" means when a person has consumed alcohol or one or more drugs, or a combination of both alcohol and one or more drugs, that affects the person to the slightest degree so that the person is less able than the person ordinarily would have been, either mentally or physically, or both mentally and physically, to exercise clear judgment, sufficient physical control, or due care.
4. "Prescribed Drug" means any substance prescribed for the individual consuming it by a licensed medical practitioner but not including marijuana.
5. "Under the Influence" means being unable to perform work in a safe and productive manner, or being in a physical or mental condition which creates a risk to the safety and well-being of the individual, other employees, the public, or town property as a result of consuming alcohol, and/or drugs. The symptoms of influence and/or impairment are not confined to those consistent with misbehavior, or to obvious impairment of physical or mental ability such as slurred speech, dilation of the pupils, odor of alcohol, difficulty in maintaining balance.

e. Presumption.

1. An employee will be presumed to be impaired and in violation of this policy where any of the following is detected in a substance abuse test administered under the terms of this policy:
 - A. The presence of drugs, including marijuana, in excess of a trace; or
 - B. the employee's blood alcohol content is at least 0.02 as detected in a substance abuse test administered under the terms of this policy.

f. Uses Prohibited

1. Employees are strictly prohibited from the following and any violation may result in disciplinary action, up to and including immediate termination:
 - A. reporting to work or being on-duty while under the influence of an alcohol beverage, marijuana or any illegal drug or controlled substance or while impaired by alcohol beverage, marijuana or any illegal drug or controlled substance;
 - B. the unlawful manufacture, distribution, dispensation, possession, transfer or use of a controlled substance or illegal drug on any property owned or controlled by the town, being used as a town work site or during on-duty time, regardless of the specific location;
 - C. the manufacture, distribution, dispensation, possession, transfer or use of marijuana, whether for medical or recreational use and regardless of whether the employee possesses a valid medical marijuana registry identification card as defined in section 25-1.5-106(2)(e) C.R.S., on any property owned or

controlled by the town or being used as a town work site or while on-duty at any location;

- D. the use or possession of an alcohol beverage on any property owned or controlled by the town or being used as a town work site or while on-duty at any location, except that alcohol beverages may be used on town property leased or rented to third parties or where legally served during an event properly authorized by the Board of Trustees;
 - E. the use, possession, sale or transfer of any drug for which the employee does not possess a valid medical prescription or any other substance which impairs job performance or poses a hazard to the safety and welfare of other employees, customers, or the public on Town property or property controlled by the Town or while on-duty at any location.
2. A "controlled substance" or "illegal drug" can include prescription drugs. Employees may use prescription drugs so long as that use is consistent with a valid current prescription and approved under working conditions by the employee's doctor. Employees must report promptly to their supervisors their on-duty use of any prescription or non-prescription medication that may impair the employee's judgment, alertness, performance or behavior. On-duty use includes use prior to reporting for work where the medication may impair an employee's judgment, alertness, performance or behavior while on-duty.

g. Drug and Alcohol Screen Tests

1. Initial Drug and Alcohol Screen Tests. To help ensure a safe, healthy workplace, subject to applicable law, the Town requires all applicants who have received conditional job offers to submit to drug and alcohol screen tests pursuant to the employee's consent in the Town's application form completed by each Town job applicant. The Town will not employ anyone who fails or refuses to take the conditional job offer screening test.
2. Reasonable Suspicion. Any Town employee may be required to take a drug and alcohol screen test where the employee's supervisor or manager has an individualized, reasonable suspicion, based on observation of job performance, appearance, behavior, speech or bodily odors of the employee, that while on duty the employee used or possessed controlled substances, drugs, alcohol or marijuana prohibited in this policy or is impaired by drugs or alcohol prohibited in this policy.
3. Safety Sensitive Positions. The Town may require employees who have a safety sensitive position, where the actions or inactions of the employee could cause loss of life, to participate in random drug and alcohol screen tests. Safety sensitive positions include but are not limited to the following: any employee whose position requires the employee to carry a firearm, employees operating vehicles under the control of the Town where the law requires the operator to hold a Commercial Driver's License, any employee providing mechanical services to a

vehicle where the law requires the operator to hold a Commercial Driver's License, all trash truck operators and trash truck mechanics, any employee who operates medium or heavy equipment for the Town, including but not limited to loaders, backhoes, road graders, dump trucks, skid steers and excavators.

4. Random Testing. In order to meet the Town's goal of detection and deterrence random drug and alcohol screen tests permitted within these policies shall not occur at regular intervals or on regularly scheduled dates.
5. Accidents. Impaired employees operating vehicles, medium and heavy equipment under the control of the Town or using fire arms on-duty may cause loss of life of employees and members of the general public. Accidents occurring on-duty while an employee is operating a vehicle, medium or heavy equipment, or involving the discharge of a fire arm create suspicion of on-duty impairment and the employee-operator shall take a drug and alcohol screen test as soon as possible and not more than three hours after the accident.

h. Employee and Town Notice Requirements

1. An employee convicted of any criminal drug statute violation which occurred in the work place or during on-duty time shall notify the Town no later than five (5) days after the conviction.
2. The Town shall notify any federal granting agency of said conviction within ten (10) days after receiving actual notice of the employee's conviction.
3. The Town shall impose a penalty on the employee for the conviction up to and including termination and/or at the Town's sole discretion require the employee to participate in an appropriate drug or alcohol counseling or rehabilitation program at the employee's expense as a condition of continuing employment.

i. Employee Assistance Program

1. Employees who use drugs or controlled substances or who abuse alcohol are urged to take advantage of the drug counseling and rehabilitation programs available through the various private and public counseling and rehabilitation programs in Otero, Bent and Pueblo Counties.
2. An employee may consult with the employee's supervisor and arrange to use accumulated sick time and vacation time to offset time to be spent in an inpatient rehabilitation program. Where insufficient accumulated sick and vacation time exists to allow the employee to participate in an inpatient rehabilitation program, the town, upon written request, may grant the employee a leave of absence without pay to participate. Upon return to duty, the employee must show written proof that the employee did participate in the inpatient program for the period of time for which any leave was granted for that purpose. After any employee act which could lead to disciplinary action under these policies, the use of counseling and/or rehabilitation to avoid termination shall be at the sole discretion of the Town.

j. Drug-Free Awareness Program

1. The Town has a drug-free awareness program. At least one time each year, the Town shall present a program to all town employees on the dangers of drug abuse in the workplace, the Town's policy of maintaining a drug-free workplace, the currently available drug counseling, rehabilitation programs, the Town's employee assistance program, and the penalties that may be imposed on employees for drug abuse violations.

k. Inspections And Searches

1. Town vehicles, lockers, desks, filing cabinets, files, etc., remain the property of the town and if management has probable cause to believe that employees may be in violation of the terms of this policy, such property may be subject to town initiated inspections and searches at any time and without notice.
2. Personal effects or containers, including but not limited to, any vehicle, package, purse, briefcase or tool box brought upon or parked upon town property will also fall under the provisions of this policy.
3. Such searches shall be done only when management has probable cause to believe that an employee may be in violation of this policy.
4. All such searches will be conducted under the direct supervision of a member of management and/or appropriate law enforcement personnel.
5. Adherence to the policy stated in this section is a condition of continued employment. Cooperation is required, and failure to cooperate on the part of the employee is subject to disciplinary action, including but not limited to termination.