

 M O N C T O N	POLICY	Owner Department: Human Resources
	Drug and Alcohol Policy	
Effective Date: December 17, 2018	Last Reviewed Date: December 17, 2018	
Approving Authority: Moncton City Council	Replaces No.: N/A	

1. Purpose

The City of Moncton ("City" or "Employer"), is committed to providing all employees with a safe and healthy work environment. Recognizing that reporting to work while impaired can pose a serious health and safety risk, the City requires all of its employees to be fit for work when reporting to work.

The City recognizes that the use of alcohol, cannabis, drugs, other mood-altering substances, or the inappropriate use of medications can adversely affect the health and safety of employees, contractors, the public and the environment and can impact work performance. As such, the City has adopted this Drug and Alcohol Policy (the "Policy") to assist in preventing such occurrences and dealing with them if they do occur.

This Policy is subject to ongoing review and evaluation and may be amended from time to time as deemed necessary to respond to current circumstances and evolving needs of the City.

2. Scope and Application

The Policy applies to all employees of the City, including permanent, temporary, seasonal, on-call, contract, full-time and part-time employees, as well as students, while they are working on City business, when on City premises, and while driving a City vehicle or operating City equipment.

Depending on the nature of their work and/or responsibilities, there are standards and responsibilities under this Policy that differ for employees who hold safety-sensitive positions and employees who do not hold safety-sensitive positions.

All contractors retained by the City will be advised of the applicable provisions of this Policy, and will be expected to enforce these requirements for themselves, their employees, sub-contractors and agents as a condition of contract.

3. Key Definitions

"**alcohol**" refers to beverage alcohol, beer, wine and distilled spirits, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl and includes the intoxicating agent found in medicines or other products, the use of which has the potential to change or adversely affect the way a person thinks, feels or acts.

"**cannabis**" as defined by the *Cannabis Act*, is a cannabis plant, regardless of whether or not it has been processed. It is a federally regulated psychoactive drug that has the ability to impair cognitive functioning. Like other drugs of concern, Cannabis (intended for recreational or medical or other use) has the potential to change or adversely affect the way a person thinks, feels or acts, and potentially compromise an employee or contractor's ability to perform their job safely and productively.

"**city business**" refers to all business activities undertaken by employees or contractors in the course of the City's operations, whether conducted on or off City premises.

"**city premises**" includes but is not necessarily restricted to all land, facilities, mobile equipment, and vehicles owned, leased or otherwise directly controlled by the City for the purpose of conducting City business.

"**contractor**" refers to any person or entity, business, or corporation, including their employees, which have been contracted, subcontracted, or otherwise engaged to provide services to the City, and shall include subcontractors and their respective employees.

"**drug**" means any substance, chemical agent, drugs or medications, that acts primarily on the central nervous system where it alters brain function and results in temporary changes in perception, mood, consciousness, and behavior, and causes cognitive and/or psychomotor impairment, and includes cannabis. Drugs are those substances, the use of which has the potential to change or adversely affect the way a person thinks, feels or acts, or inhibits a worker's ability to perform his or her job safely and productively. Drugs also include all mood-altering substances.

"**employee**" includes all regular full-time, part-time, seasonal, temporary, contract, casual and fixed-term employees of the City, as well as students and volunteers of the City.

"**fit for work/ duty**" in the context of this Policy means being able to safely and acceptably perform all assigned tasks and duties under the working conditions present at the time without any limitations due to the use or after-effects of alcohol, drugs, cannabis, mood-altering substances, or medications.

"**medication**" refers to a regulated pharmaceutical medicine that requires physician or other qualified healthcare professional authorization before it can be obtained in the jurisdiction where personnel are performing services and includes Medically Authorized Cannabis. Non-prescription, over the counter drugs which can be obtained without authorization are included in this definition when their use can influence fitness for duty.

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"**safety-sensitive position**" refers to any position in which individuals have a key and direct role in an operation where impaired performance could result in the following or cause serious risk of the following:

- a serious event, circumstance, incident, accident, occurrence, or near miss affecting the health or safety of employees, contractors, customers, the public or the environment or causing loss or damage to the property of the City; or
- an inadequate response to an emergency or operational situation.

In principle, a safety-sensitive position is one that has direct influence on the safety of the operation, has considerable ability for independent action and/or limited supervision and can not necessarily rely on other prevention or technical controls when performing their job.

For the purposes of this Policy, the following positions are examples of what are considered to be safety-sensitive positions.

- Firefighters
- Bus Operators
- Equipment Operators
- 911 Operators
- Zookeepers

The employees who supervise or manage these positions are also considered to hold safety-sensitive positions.

"**significant incident**" refers to any event, circumstance, incident, accident, or near miss that caused or had the potential to cause serious personal injury, fatality, significant loss or damage to property, equipment, vehicles or the environment.

4. Policy Standards

To minimize the risk of unsafe and unsatisfactory performance due to the use of alcohol, cannabis, drugs, other mood-altering substances, or the inappropriate use of medications, employees are expected to comply with the following standards, and to report for work fit for duty and remain fit for duty throughout their work day. Employees must remain free from the influence of alcohol, cannabis, drugs, or other mood-altering substances or medications that may cause cognitive or psychomotor limitations, impairment, or otherwise inhibit the ability of an employee to perform job duties safely and productively, or to adversely change the way an employee thinks, feels, or acts.

Alcohol

Employees are prohibited from:

- reporting for work or remaining at work under the influence of alcohol;
- consuming, distributing, offering or selling alcohol while at work, including during meals and breaks; and
- consuming alcohol after an incident until tested or advised by the City that a test is not required.

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Cannabis

Employees are prohibited from:

- reporting for work or remaining at work under the influence of cannabis; and
- consuming, distributing, offering or selling cannabis while at work, including during meals and breaks.

Due to the unpredictable length of time during which cannabis can cause impairment, employees in safety-sensitive positions must not consume any cannabis within 24 hours of active duty. Any employee in a safety-sensitive position who has obtained the proper authorization for medical cannabis from a medical practitioner must disclose this to his or her supervisor and/or Human Resources so that accommodation in a non-safety sensitive position can be explored.

Drugs and Drug Paraphernalia

Employees are prohibited from:

- reporting for work or remaining at work under the influence of drugs; and
- consuming, distributing, offering or selling drugs or drug paraphernalia while at work, including during meals and breaks.

Medications

Medications of concern are those that inhibit or may inhibit an employee's ability to perform their job safely and productively. Employees are expected to responsibly use prescribed, medically authorized and over-the-counter medications and to comply with the following while reporting to work:

- The use or possession of prescribed medications, without a legally obtained prescription from a licensed doctor, is prohibited.
- The misuse of medications is prohibited.
- Employees are expected to consult with a physician, pharmacist or licensed health care professional and disclose the nature of their employment responsibilities, to determine if use of a medication could inhibit the employee's ability to perform their job safely and productively and must take appropriate steps to minimize any associated risk.
- An employee using a medication that could affect safe and productive performance is required to disclose the medication to his or her manager or supervisor prior to work in order to be able explore any potential need for modified work duties as a result of such medication use, or alternative treatment options.

Employee Responsibilities

All Employees are responsible to:

- read and understand the Policy and their responsibilities under it;
- report fit for duty for any and all scheduled duty and remain fit for duty while on City business and premises and when on call;
- perform their job safely and in compliance with all applicable rules, policies and procedures;
- refuse to come to work if they are requested to perform unscheduled services and are not fit for duty;

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- notify a supervisor or manager if another employee appears to be in violation of this Policy or is otherwise not fit for duty;
- report a significant incident to their supervisor as soon as possible after it occurred and participate fully in any subsequent investigation;
- use medications responsibly;
- be aware of the availability of City resources and seek assistance in dealing with and disclose a potential or emerging substance abuse or dependence disorder;
- advise their supervisor or manager prior to work of any need for modified work duties as a result of medication use;
- cooperate with any investigation or search as a result of an alleged violation of this Policy;
- participate in the alcohol and drug testing program as and when required to do so under this Policy;
- comply with treatment and follow recommended monitoring programs; and
- inform the City immediately if they are charged with an offense related to alcohol or drugs and occupy a safety-sensitive position.

All employees who regularly or periodically operate any motorized vehicle and/or equipment on behalf of the City must advise Human Resources of any loss of their license so that appropriate action can be taken regarding safety and insurance coverage.

Employees must inform their supervisor immediately if they have been charged with an impaired driving offense when operating a City vehicle or driving on behalf the City.

Management and Supervisory Responsibilities

In addition to the responsibilities as an Employee, all managers and supervisors are also responsible for:

- ongoing performance management to ensure safe operations and effectiveness of the administration of this Policy;
- guiding employees who seek assistance for a problem to appropriate resources (e.g. the Employee Assistance Program (EAP));
- identify possible impairment;
- be knowledgeable about, communicate and provide leadership in the implementation and application of this Policy;
- ensure all employees are aware of and follow this Policy;
- arrange immediate referrals for alcohol and/or drug testing, as and when required to do so under this Policy;
- take immediate action(s) to remove employees from duties subsequent to positive or non-negative drug and / or alcohol test results; and
- maintain all personal employee information in the strictest confidence.

5. Investigation

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In all situations when there are grounds to believe an employee is unfit for work, an investigation will take place. The employee will be escorted by the supervisor to a safe/private place and will be given an opportunity to explain why they appear to be in a condition unfit for work.

If there are immediate medical concerns, the Supervisor will make arrangements to accompany and transport the employee for appropriate medical attention at a local hospital or clinic, and shall notify the Occupational Health Nurse.

A unionized employee has the option to request union representation at the onset of any investigation provided it does not unduly delay the investigation. Alternative representation options should be sought if the delay is too great.

In the following circumstances, employees in safety sensitive positions will be subject to testing:

- a) **Reasonable Cause:** Whenever the City has reasonable grounds to believe that the actions, appearance or conduct of an individual while on duty, or upon reporting for duty, are indicative of impairment, or the use of drugs, cannabis or alcohol, or any other violation of this Policy, the City has a duty to inquire, and a legal obligation to initiate a discussion with the employee as to the cause of the observed impairment. If a supervisor or coworker becomes aware of an employee who is showing signs of impairment, it is imperative that action is taken. In the event of suspected impairment, a drug and/or alcohol testing may be required.

The decision to test shall be made by a supervisor, with concurrence of a second person wherever possible, to facilitate an unbiased assessment. The basis for the decision will be documented as soon as possible after action has taken place.

The referral for a test will be based on specific, personal observations resulting from, but not limited to such indicators as:

- observed use or evidence of use of a substance (e.g. smell of alcohol, cannabis or drugs);
- erratic or atypical behaviour of the employee;
- changes in the physical appearance of the employee;
- changes in the behaviour of the employee;
- changes in the speech patterns of the employee; or
- being in possession of, or in the vicinity of alcohol, cannabis, drugs, or drug paraphernalia.

The City must enforce this Policy in a fair and equal manner. The manager or supervisor will make an assessment of the situation by meeting with the employee and will consult privately with the employee to inquire into the observed behaviors or conduct that gave rise to the reasonable suspicion. A unionized employee has the option to request union representation during this meeting provided it does not unduly delay the investigation. The manager or supervisor will provide the employee with a full opportunity to explain, including the

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opportunity to respond to whether they are impaired by any alcohol, cannabis, drugs, mood-altering substances or medications.

Where the manager or supervisor determines there is reasonable cause, the manager or supervisor shall direct the employee to submit to a drug and/or alcohol test, and hold that employee out of service until verified negative test results have been received.

Once the immediate situation is attended to and any safety concerns addressed, the City will commence an investigation into the situation in order to determine whether the Policy was violated and/or whether disciplinary action is warranted. Alternatively, the City will determine whether some other course of action is appropriate.

- b) **Post-Incident:** drug and/or alcohol testing may be required after a significant incident as part of a full investigation into the circumstances, even in the absence of reasonable cause. The decision to refer an employee, or a group of employees, for a drug and/or alcohol test will be made by the supervisor investigating the incident and with agreement of a second person whenever possible.

In deciding whether to request a test, the City shall apply the following principles:

- i. An investigation into the significant incident or near miss must be conducted to determine whether drug or alcohol use is a realistic causal factor. Only in circumstances where drug or alcohol use cannot be ruled out as a cause of the significant incident or near miss should a test be requested.
- ii. The decision to request a test under this section is discretionary and must be made on a case-by-case basis by the person conducting the investigation and/or Human Resources. Factors such as the employee's job duties, the extent to which safety is inherent in those duties, and the employee's level of involvement in and/or responsibilities in relation to the significant incident or near miss, will be considered.
- iii. The significant incident or near miss must be significant. Trivial incidents or near misses or those causing minor property damage or personal injury will not normally alone provide reason for a drug and/or alcohol test.
- iv. Before deciding to request a test, the employee's right to privacy and bodily integrity, and the impact the test will have on those rights, must be taken into consideration.

Drug and/or alcohol testing will not be required if there is immediate factual evidence to indicate that other factors were the sole cause of the significant incident, and the acts or omissions of employees were not contributing factors (e.g. structural or mechanical failure).

Employees referred for an alcohol and/or drug test will only be those who are identified, with reasonable grounds, as having been directly involved in the chain of acts or omissions leading up to the significant incident.

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Since all employees holding safety sensitive positions involved may be subject to testing after a significant incident, they are to report the situation to their immediate supervisor as soon as possible after the incident and participate fully in any subsequent investigation.

Failure to report a significant incident is a violation of this Policy.

- c) **Return to Duty/Follow-up Testing:** In situations in which employment is continued after a failed alcohol and/or drug test, the employee must pass a return-to-duty alcohol and/or drug test, and may be subject to unannounced alcohol and/or drug testing for a period to be determined. An employee who has completed a treatment and/or education program under this Policy, or has disclosed a substance abuse dependence and/or received treatment for substance abuse dependence and has returned to work may be required to have ongoing unannounced alcohol and/or drug testing. An employee may be required to agree to testing or enter into a last change agreement that requires unannounced testing as a condition of their return to work.

Failure or Refusal to Test:

Failure to report directly for a test, failure to cooperate with the request for testing, missing a scheduled test, any attempt to delay reporting for a test, refusal to submit to a test, refusal to agree to disclosure of a test result to management, a confirmed tampering or attempt to tamper with a test sample or result, or failure to report an incident that could potentially lead to a test will be considered a Policy violation and are cause for discipline, up to and including termination.

6. Requests for Accommodation

The City recognizes that alcohol and/or drug dependency are treatable illnesses and that early intervention and assistance improves the probability of a successful recovery. The City provides access to an Employee and Family Assistance Program ("EFAP") for employees and their family members experiencing personal issues, including issues related to the use of or dependency on drugs and/or alcohol. Employees concerned about or experiencing an alcohol or drug use problem are encouraged to seek assistance from the EFAP, their personal physician or appropriate community services.

The City recognizes the importance of protecting its employees' privacy and encourages employees' acceptance of prevention and treatment measures. All information disclosed by an employee in relation to a drug or alcohol use problem or accessing EFAP will be treated confidentiality, except where limited disclosure is necessary to effectively manage health and safety and the terms of this Policy. No health information will be shared without written consent of the employee.

Employees who seek or voluntarily access assistance with a drug or alcohol dependency, declare a problem, or participate in a treatment program are not exempt from the requirement to maintain satisfactory performance levels and meet the fitness for duty and other requirements of this Policy.

7. Policy Violations & Consequences

In keeping with our commitment to a safe and healthy work environment, any Employee who violates this Policy will be subject to disciplinary action, as appropriate, up to and including immediate termination of their employment.

In all situations, an investigation must be conducted and documented to verify that a Policy violation has occurred. Pending the results of an investigation, the City has the authority and discretion to suspend an employee who it believes to be involved in an incident that could lead to corrective action.

The imposition and degree of corrective action will be determined on an individual, case by case basis, taking into account all relevant factors and circumstances, and principles of just cause.

8. Administration and Contact

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