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| Title of Policy: | **Substance Abuse Policy Statement** | **Pg 1-5** |
| Section #: | Section 20 |  |
| Approval Date: | **February 9, 2021** |  |
| Revision Date: |  | Policy 20.1 |

The KWD is committed to providing a safe work environment and to fostering the well-being and health of its employees. That commitment is jeopardized when anyKWD employee illegally uses drugs on or off the job, comes to work under their influence, possesses, distributes or sells drugs in the workplace, or abuses alcohol on the job. Therefore, The KWD has established the following policy, pursuant to T.C.A. Section 50-9-100 et. seq.:

**(1) It is a violation of KWD policy for any employee to use, possess, sell, trade, offer for sale, or offer to buy illegal drugs or otherwise engage in the illegal use of drugs on or off the job,**

**(2) It is a violation of KWD policy for any employee to report to work under the influence of or while possessing in his or her body, blood or urine, illegal drugs in any detectable amount.**

**(3) It is a violation of KWD policy for any employee to report to work under the influence of or impaired by alcohol and or drugs.**

**(4) It is a violation of the KWD policy for any employee to use prescription drugs illegally, i.e., to use prescription drugs that have not been legally obtained or in a manner or for a purpose other than as prescribed. However, nothing in this policy precludes the appropriate use of legally prescribed medications unless those medications cause impairment.**

**(5) Violations of this policy are subject to disciplinary action up to and including termination.**

It is the responsibility of the Department Head to counsel employees whenever they see changes in performance or behavior that suggest an employee has a drug problem. Although it is not the Department Head’s job to diagnose personal problems, the Department Head should encourage such employees to seek help and advise them about valuable resources for getting help. Everyone shares responsibility for maintaining a safe work environment, and co-workers should encourage anyone who has a drug problem to seek help.

The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive and drug- free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the illegal use of drugs and the abuse of alcohol are incompatible with employment at the KWD.

As a condition of employment, employees must abide by the terms of this policy and must notify The KWD in writing of any conviction of a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

KWD offers an Employee Assistance (EAP) benefit for employees and their dependents. This program is open only to employees enrolled in our health benefit plan. The EAP provides confidential assessment, referral and short-term counseling for employees who need or request it. If an EAP referral to a treatment provider outside the EAP is necessary, costs may be covered by the employee’s medical insurance; but the cost of such outside services are the employees’ responsibility. Confidentiality is assured. NO information regarding the nature of the personal problem will be made available to supervisors, nor will it be included in the permanent personnel file. Participation in the EAP will not affect an employee’s career advancement or employment, nor will it protect an employee from disciplinary action if substandard job performance continues. The EAP is a process used in conjunction with discipline, not a substitute for discipline. The EAP can be accessed by an employee through self-referral or through referral by a supervisor. We will also distribute information about other EAP resources to employees not enrolled in our health benefits for their confidential use.

**General Procedures**

Any employee reporting to work visibly impaired will be deemed unable to perform required duties and will not be allowed to work. If possible, the employee’s supervisor will first seek another supervisor’s opinion to confirm the employee’s status. Next, the supervisor will consult privately with the employee to determine the cause of the observation, including whether substance abuse has occurred. If, in the opinion of the supervisor, the employee is considered impaired, the employee will be sent home or to a medical facility by taxi or other safe transportation alternative - depending on the determination of the observed impairment - and accompanied by the supervisor or another employee if necessary. A drug or alcohol test may be in order. An impaired employee will not be allowed to drive.

**Opportunity to Contest or Explain Test Results**

Employees and job applicants who have a positive confirmed drug or alcohol test result may explain or contest the result to the medical review officer within five (5) working days after receiving written notification of the test result from the medical review officer; if an employee’s or job applicant’s explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the City of Kingston/KWD; a person may contest the drug test result pursuant to rules adopted by the Bureau of Workers’ Compensation.

**Confidentiality**

The confidentiality of any information received by the employer through a substance abuse testing program shall be maintained, except as otherwise provided by law.

**Job Applicant Drug Testing**

All job applicants at the KWD will undergo testing for substance abuse as a condition of employment. Any applicant with a confirmed positive test result will be denied employment.

Applicants will be required to submit voluntarily to a urinalysis test at a laboratory chosen by The KWD, and by signing a consent agreement will release the KWD from liability. If the physician, official or lab personnel have reasonable suspicion to believe that the job-applicant has tampered with the specimen, the applicant will not be considered for employment. Kingston will not discriminate against applicants for employment because of a past history of drug or alcohol abuse. It is the current illegal use of drugs and/or abuse of alcohol, preventing employees from performing their jobs properly, that the KWD will not tolerate.

**Employee Drug Testing**

The KWD has adopted testing practices to identify employees who use illegally use drugs on or off the job or who abuse alcohol on the job. It shall be a condition of employment for all employees to submit to substance abuse testing under the following circumstances:

**1.** When there is reasonable suspicion to believe that an employee is illegally using drugs or abusing alcohol. ‘Reasonable suspicion’ is based on a belief that an employee is using or has used drugs or alcohol in violation of the employer’s policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon, but not limited to, the following:

(A) Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance ab use;

(B) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;

(C) A report of substance abuse provided by a reliable and credible source;

(D) Evidence that an individual has tampered with any substance abuse test during his or her employment with the current employer;

(E) Information that an employee has caused or contributed to an accident while at work; or

(F) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer’s premises or while operating the employer’s vehicle, machinery, or equipment.

**2.** When employees have caused or contributed to an on-the-job injury that resulted in a loss of work-time, which means any period of time during which an employee stops performing the normal duties of employment and leaves the place of employment to seek care from a licensed medical provider. An employer may send employees for a substance abuse test if they are involved in on-the-job accidents where personal injury or damage to company property occurs.

**3.** As part of a follow-up program to treatment for drug abuse.

**4.** Routine fitness-for-duty drug or alcohol testing. A covered employer must require an employee to submit to a drug or alcohol test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination where the examinations are required by; law, regulation, are part of the covered employer’s established policy, or one that is scheduled routinely for all members of an employment classification group.

**Alcohol Testing**

The consumption or possession of alcoholic beverages on the KWD premises is prohibited. An employee whose normal faculties are impaired due to alcoholic beverages while on duty/City business shall be guilty of misconduct, and shall be subject to discipline up to and including termination.

**Refusal to Submit**

Failure to submit to a required substance abuse test also is misconduct and also shall be subject to discipline up to and including termination. If an employee attempts to falsify test results through tampering, contamination, adulteration, or substitution shall not be allowed to report for duty and his or her employment will be terminated. Refusal can include the inability to provide a specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

**Disciplinary**

Violation of this policy can lead to disciplinary action up to and including termination. The KWD shall withdraw any conditional offer of employment to an applicant who receives a verified positive drug test or confirmed alcohol presence test.

If the employee has a positive confirmed test result a medical review officer will attempt to contact the individual in order to privately discuss the findings with that person. The employee can declare and prove any prescriptions that could alter the outcome of the screening. The medical review officer will take this information into account when interpreting any positive confirmed test results. The information provided shall be treated as confidential and will not be given to the employer. Employees and job applicants have the right to consult with a medical review officer for technical information regarding prescription and non-prescription medicine.

In the event that the City Manager determines not to terminate an employee for a violation of this policy, the KWD may subject the employee to unannounced follow-up alcohol and/or controlled substances testing.

**Return-to-Duty Testing**

In the event that an employee is not terminated for a violation of this Policy, the employee shall undergo return-to-duty testing as set forth in this paragraph.

* The KWD shall ensure that before an employee returns to duty after engaging in prohibited conduct regarding controlled substances, the employee shall undergo a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances use.
* The KWD shall ensure that before an employee returns to duty after engaging in prohibited conduct regarding alcohol misuse, the employee shall undergo a return-to-duty alcohol test indicating a verified breath alcohol of a negative result.

It is the responsibility of every employee or job applicant to notify the testing laboratory of any administrative or civil action brought pursuant to TCA Section 50-9-100 et. seq., Drug-Free Workplace Programs.

The provisions of this policy are subject to any applicable collective bargaining agreement or contract and include the right of appeal to the applicable court.

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Employee Initials