

COLLECTIVE BARGAINING AGREEMENT

Between

THE CITY OF GRESHAM

and the

**INTERNATIONAL ASSOCIATION
OF
FIREFIGHTERS**

LOCAL 1062

July 1, 2019 – June 30, 2022

Contract No. 7637

Appendix B

SUBSTANCE ABUSE POLICY and TESTING PROCEDURES

1. POLICY AND DEFINED TERMS.

- A. The City and the Association are committed to maintaining a safe and healthy workplace for all employees by identifying the misuse of alcohol and controlled substances, assisting employees to overcome these problems through appropriate treatment and, if appropriate or necessary, disciplinary action. Unless otherwise provided by law, the presence or treatment of substance abuse will not excuse an employee from meeting performance, safety or attendance standards or following other City instructions. Employees who engage in any conduct prohibited under this Policy may be subject to discipline, up to and including discharge, so long as just cause exists for such discipline.
- B. For purposes of this Policy only, the term “controlled substance” shall include: Substances regulated by the Federal Controlled Substance Act (21 USC 812) and those found in Oregon Revised Statute 475.005(6), other mind-altering or function-altering substances that are not approved for human consumption by the U.S. Food and Drug Administration, excluding any substance lawfully prescribed for the employee’s use and used in accordance with the prescription.

Marijuana is defined as a controlled substance for the purpose of this Policy, regardless of whether the marijuana was for medical or recreational use.

- C. The City will maintain an Employee Assistance Program (EAP) at no additional cost to the employee. The general purpose of the EAP will be to reduce problems in the workforce and retain valued employees. The EAP will offer limited professional assistance to employees in dealing with problems of a personal nature, including substance abuse that may have an adverse effect on job performance.
- D. For purposes of this Policy only, the term “reasonable suspicion” shall mean: An objectively reasonable suspicion based on specific, articulable facts or observations such as concerning the employee’s appearance, unusual behavior, speech, breath odor, body movements, abrupt change in pattern of conduct or other reliable indicators. The suspicion must be sufficient to lead a reasonable person to suspect the employee has consumed or is under the influence of controlled substances or alcohol such that the employee’s ability to safely perform their job is reduced. A reasonable suspicion is more than a hunch. An accident with or without a vehicle is not alone grounds for reasonable suspicion.
- E. For the purposes of this Policy only, the term “under the influence” shall mean: Blood Alcohol Content (BAC) of .02% or greater by volume of breath as indicated by an evidential breath test or a positive urine test for the presence of a controlled substance in the employee’s body in an amount that equals or exceeds the Cutoff Concentration (CC) amounts in the CC chart contained in the Mandatory Guidelines for Federal Workplace Drug Testing Programs published in the Federal Register at the time of testing.

2. PRESCRIPTION (RX) AND OVER-THE-COUNTER (OTC) MEDICATION.

- A. Except for medical marijuana, this Policy is not intended to prohibit the lawful possession or use of Rx or OTC medication taken in accordance with the prescription or intended use.
- B. Consumption of Rx or OTC medication that may affect an employee’s ability to safely perform assigned duties must be reported to a supervisor and/or the Human Resources department, before

the employee reports to work. Although an employee is not required to provide the City with the name(s) of the medication(s) taken, medical verification of the prescription may be required. Employees are responsible for consulting with the employee's healthcare provider (HCP) or pharmacist to determine whether there are any side effects or drug interactions that may affect the employee's ability to safely perform assigned duties.

- C. If an employee's use of such Rx or OTC medication(s) could adversely affect City operations or safety of City employees or other persons, the City may reassign the employee to other work or take other appropriate action to accommodate the physical or mental effects of the medication. In some cases, the supervisor may determine the employee should not report to work. The employee may have to receive and provide clearance from the employee's HCP before reporting to work.
- D. There will be no discipline of an employee for reporting, in advance of performing assigned duties, the use of a Rx or OTC medication which the employee believes may affect or impair the employee's ability to perform assigned duties.
- E. Supervisors and Human Resources staff that receive information relating to employee medical issues will be trained to comply with employee privacy rights related to HIPPA, and to keep employees' medical information confidential. Supervisors and Human Resources staff will share employees' information with others only as necessary and in compliance with this Policy and applicable law.
- F. Any costs not covered by the employee's health insurance related to the City's request and lawful medical verification under this Policy will be paid for by the City.

3. PROHIBITED CONDUCT.

The following conduct is prohibited:

- A. Possessing, selling, purchasing, distributing or using/consuming any controlled substance or drug equipment or paraphernalia while on duty;
- B. Failing to promptly report a conviction, arrest, citation, or plea-bargain for a controlled substance-related or alcohol-related criminal or traffic offense within 48 hours (post incarceration if applicable) or before reporting to work, whichever is sooner. All such convictions, arrests, citations, and plea-bargain arrangements must be reported as soon as possible to the Director of Human Resources, and the Chief of FES.
- C. Reporting for work, returning to work, or working under the influence of alcohol or controlled substances;
- D. Abusing any controlled substance which is lawfully prescribed for the employee's use (~~i.e.~~ e.g. by taking it contrary to the employee's HCP instructions, or by unlawfully obtaining it for the purposes of abuse);
- E. Failure to report use of prescribed medication (Rx) or over-the counter drugs (OTC) medication that may affect the employee's ability to safely perform assigned duties prior to reporting to work or while on duty;
- F. Failure to report reasonably known exposure or reasonably known unintentional ingestion of a controlled substance so that appropriate medical steps may be taken to ensure the employee's health and safety;