

## 4.01 DRUG & ALCOHOL USE PROHIBITED

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### General

The ~~City of Portland~~ Auditor's Office views illegal drug use and excessive use of legal drugs and alcohol as a threat to the public welfare and the health, safety and productivity of employees ~~of the City~~.

The Auditor's Office ~~City of Portland~~ has a strong commitment to its employees to provide a safe work environment and promotes high standards of employee fitness. Consistent with the intent of this commitment, the City established this rule regarding drug and alcohol abuse. The ~~City's~~ goal is to establish and maintain a work environment that is free from the effects of drug and alcohol abuse.

While the Auditor's Office ~~City of Portland~~ has no intention of interfering with the private lives of employees, the Auditor's Office ~~City~~ expects its employees to report to work in a condition to perform their duties in a safe, effective and efficient manner.

**All persons covered by this rule should be aware that violations will result in discipline, up to and including termination, or in removal from the application process.**

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### Covered Employees

This rule covers applicants for ~~certain~~ classified positions and all Auditor's Office ~~City of Portland~~ employees in the classified service or exempt from classified service, ~~excluding sworn members of the Bureau of Fire, Rescure and Emergency and the Police Bureau who are covered by separate bureau drug and alcohol rules.~~

With the exception of the sections regarding Employee Assistance and Discipline, this rule also covers all temporary and seasonal employees outside the classified service.

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### Definitions

**Managers and Supervisors** refers to all employees with supervisory responsibility.

Auditor's Office refers to all divisions within the office.

~~City is the City of Portland and its Bureaus.~~

Bureau Division is the particular ~~City bureau~~ Auditor's Office program or division ~~or office~~ where the employee ~~involved~~ works.

**Prescription medication** is a medication for which an employee has a valid prescription from a qualified physician.

**Drugs** as used in this rule includes marijuana and ~~all~~ illegal drugs.

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**Rules**

**~~No e~~Employees shall not:**

1. Unlawfully manufacture, distribute, dispense, possess or use illegal drugs or marijuana~~a controlled substance~~ in the workplace, ~~including marijuana~~;
2. Report for duty under the influence of alcohol, marijuana, or illegal drugs;
3. Report for duty with the odor of alcohol, marijuana or illegal drugs ~~or marijuana~~ on their person;
4. Absent themselves from duty or be unfit to fully perform duties for reasons attributable to, or produced by, indulgence in alcohol, marijuana, illegal drugs, or the excessive or other improper use of prescription drugs or other medications.
5. Bring or cause to be brought onto City property any alcohol, marijuana, or illegal drugs;
6. Use any prescription or nonprescription medications ~~, which that~~ may interfere with the safe and effective performance of duties or operation of ~~City~~ equipment or vehicles; without notifying their supervisor prior to beginning work or operating the equipment or vehicle.
7. Refuse to respond to questions within the scope of this rule.

**While working (in a City facility or at an off-site location), operating a City vehicle (on or off duty) or wearing a City uniform, ~~no~~ employees shall not:**

1. Have the odor of alcohol, marijuana, or illegal drugs on their person;
2. Use alcohol, marijuana, or illegal drugs;
3. Have their ability to work impaired ~~because as a result~~ of the use of alcohol, marijuana, or illegal drugs;
4. Possess alcohol, marijuana, or illegal drugs;
5. Provide, manufacture, deliver, transfer, offer, or sell alcohol, prescription or illegal~~or~~ drugs, or marijuana to any other employee or to any person while on duty;

If there is a question regarding an employee's ability to work safely and effectively while using prescription or nonprescription medications, clearance from a qualified physician will be required. The Auditor's Office ~~City~~ will continue to retain the right to make the final determination concerning an employee's fitness to perform work.

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**Exception for Elected Official Sponsored Event**

Events that are sponsored or approved by an elected official are exempt from the section prohibiting alcohol to be brought on to City property.

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**Searches in Areas and Property in which the City Maintains Joint Control or Full Control**

The Auditor's Office ~~City~~ reserves the right to search, without employee consent, all areas and property over which the City maintains joint or full control. All City vehicles, equipment, offices, desks and lockers are subject to search by management. Searches, which are undertaken specifically to investigate violations of this rule, shall be conducted in the presence of the employee if practical. If the employee is not available, or if the employee so requests, a reasonable time will be allowed for a representative to be present before a search is conducted. The limitation on the right of the Auditor's Office ~~City's right~~ to examine ~~City~~ property contained in this paragraph does not apply to property used jointly by more than one (1) employee.

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**Managers and supervisors shall not physically search employees.**

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**Searches of Other Areas and Property**

The manager or supervisor shall first ask the employee to consent to a search of the area where the manager or supervisor believes there is evidence of a violation of this rule.

For DCTU-~~represented~~, PTE Local 17 (COPPEA), Recreation and BOEC employees, the manager or supervisor shall contact a union representative, and they shall jointly ask the employee to consent to a search of the area where the manager or supervisor believes there is evidence of a violation of this rule. The union representative will encourage the employee to comply with the request.

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**Responsibility of Employees**

~~An~~ Employees must:

1. Comply with all aspects of this administrative rule.
  2. Notify their supervisor before beginning work, when taking any prescription or non-prescription medications ~~which~~that may interfere with the safe and effective performance of duties or operation of ~~City~~ equipment.
  3. Consult with the supervisor if there is any question concerning whether the use of a particular prescription or non-prescription medication is covered by this rule. Note: This rule is not intended to prohibit the safe and legal use of prescription and nonprescription medications.
  4. Provide, as soon as possible and no later than within 48 hours of a request, proof of a valid prescription for any medication identified by the employee as the cause of their behavior. The prescription must be in the employee's name.
  5. Notify ~~the bureau~~ Management Services of any felony drug arrest or conviction by the next regularly scheduled workday.
  6. Notify ~~the bureau~~ Management Services of any drug conviction for acts occurring on City premises or on duty by the next regularly scheduled workday.
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**Responsibility of  
Bureau Auditor's Office**

1. Notify and provide a copy of this rule to all current employees.
  2. Provide training on the implementation of this rule's procedures to all managers and supervisors ~~within the bureau~~ who supervise covered employees.
  3. Provide ongoing administration and enforcement of this rule.
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**Responsibility of  
Management**

Managers and supervisors are responsible for consistent enforcement of this rule. Any supervisor who knowingly permits a violation of this rule by employees under their direct supervision shall be subject to disciplinary action.

Managers and supervisors must:

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1. Investigate any question ~~that, which~~ arises about an employee's fitness to work due to use of prescription or nonprescription medications, including alcohol, marijuana, or illegal drugs.
  2. Investigate any employee who appears to be in violation of this rule.

Advise an employee of their right to have either an available union representative (if any) or another employee present during an investigatory interview.

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### Employee Assistance Program

The City has established an **Employee Assistance Program** to assist ~~employees~~ with a full range of personal, issues including alcohol and drug abuse problems. The ~~program~~**EAP** provider can evaluate an employee's case and determine the appropriate level and type of treatment, if any.

1. Employees are encouraged to voluntarily seek professional assistance for alcohol and drug abuse with or without contacting management.
2. Employees are encouraged to ~~use~~**utilize** chemical dependency programs offered under benefit plans.
3. A manager or supervisor who has reason to believe that an employee may have a drug or alcohol problem ~~that which~~ is affecting the employee's work performance, may suggest that the employee go to the City's ~~program~~**EAP** provider for an assessment. Participation in the assessment is voluntary.
4. Contact between the employee and the ~~program~~**EAP** provider is confidential unless otherwise authorized by the employee.
5. A referral to the City's ~~assistance~~ **EAP** program is separate from any disciplinary action that may result from the employee's violation of this rule.
6. A referral to the City's ~~EAP~~ program does not increase the employee's ~~EAP~~ **program assistance** benefits.

See the **Administrative Rule** on the EAP for more information.

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### Employee Testing ~~F~~for Use of Alcohol or Drugs

Employees may be tested pursuant to the terms of an agreement between an employee, the employee's union representative (if any), and ~~the Auditor's Office~~**their bureau.** ~~The purpose of testing which is designed~~ to address the employee's substance abuse and work behavior problems.

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### ~~Applicant Testing for Use of Alcohol or Drugs~~

~~Applicants for positions covered by this rule may be tested for drug or alcohol usage as part of the pre-employment physical examination process.~~

- ~~1. Testing of applicants will occur at the request of a Bureau Manager and concurrence of the Director of Human Resources and City Attorney.~~
  - ~~2. Factors to consider when determining which examinations will have preemployment testing are:~~
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- ~~(a) Working with or operation of vehicles or other machinery;~~
  - ~~(b) Public safety related work;~~
  - ~~(c) Work with children;~~
  - ~~(d) Work around hazardous areas and/or hazardous materials.~~
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**Testing Procedure**

All drug and alcohol testing will be performed by a laboratory selected by the City Auditor's Office and in accordance with the Drug and Alcohol Testing Procedure.

The laboratory or laboratories shall retain a sample for retesting for a minimum of six (6) months.

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**Results of Preemployment Drug Analysis**

~~An applicant who tests positive for illegal drugs or alcohol will not be considered for hire where the applicant's use of drugs and/or alcohol could affect requisite job standards, duties, or responsibilities.~~

~~If a drug screen is positive at the preemployment physical, the applicant must provide as soon as possible, but no later than within 48 hours of request, bona fide verification of a valid prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification or if the prescription medication is one that is likely to impair the applicant's ability to perform essential job functions, the applicant will not be hired.~~

~~A positive result for an applicant who is presently a City employee will be forwarded to their supervisor for investigation.~~

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**Confidentiality**

Laboratory reports or test results will be retained in an employee ~~or applicant's~~ confidential medical file. The reports or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee ~~or applicant~~; (3) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

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**City of Portland Drug & Alcohol Testing for Commercial Drivers License**

~~The City's policy for drugs and alcohol testing for employees assigned duties requiring the possession of a Commercial Drivers License is contained in a separate document. Contact Labor Relations for a copy of that policy.~~

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**Administrative Rule History**

~~Adopted by Council March 6, 2002, Ordinance No. 176302  
Effective April 5, 2002  
Revised July 28, 2003  
Revised May 9, 2008  
Revised November 4, 2011~~

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Revised April 25, 2016

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