



# **DRUG AND ALCOHOL FREE WORKPLACE POLICY**

(Article 24 of the Crow Wing County Personnel Manual)

## **ARTICLE 24: DRUG AND ALCOHOL FREE WORKPLACE POLICY**

### **24.00 Policy**

Crow Wing County is committed to protecting the safety, health and well being of all employees and individuals in our workplace. We recognize that alcohol abuse and drug use pose a significant threat to job performance and the safety and security of our operation. We have established a drug and alcohol free workplace program that balances our respect for individuals with the need to maintain a drug and alcohol free environment.

### **24.01 Prohibitions/Requirements**

All employees are accountable for maintaining a drug and alcohol free workplace by adhering to the following during work hours, while on the county's premises, or wherever the county's work is being performed:

- No employee shall report to work under the influence of illegal drugs, alcohol, or controlled substances. No employee shall report to work under the influence of prescription drugs which adversely affect their alertness, reaction, response, judgment, decision-making, or safety.
- No employee shall operate, use, or drive any equipment, machinery, or vehicle of the county while under the influence of prescription drugs which adversely affect their alertness, reaction, response, judgment, decision-making, or safety, or while under the influence of illegal drugs, alcohol, or controlled substances. Such employee is under an affirmative duty to immediately notify his/her supervisor that he/she is not in an appropriate mental or physical condition to operate, use, or drive county equipment or his/her personal vehicle while on county business.
- During work hours, including rest and lunch breaks, or while on the county's premises, or while operating the county's vehicle, machinery or equipment, no employee shall use, sell, manufacture, possess, or transfer illegal drugs or alcoholic beverages.
- The required transportation or possession of illegal drugs, alcohol or controlled substances as a result of performing official peace officer duties or undercover operations by order of the Sheriff is not considered in violation of this policy.
- Supervisors shall notify the appropriate law enforcement agency when they have reasonable suspicion to believe that an employee may have illegal drugs in their possession during work hours, or on county premises, or while operating the county's vehicle, machinery or equipment.
- Any employee engaging in the off-duty manufacture, sale, transfer, use, or possession of illegal drugs or controlled substances is subject to discipline up to and including termination of employment.
- Any employee convicted of manufacturing, using, selling, distribution or possessing a controlled substance in the workplace shall notify the county via the Human Resource Director within five (5) days of the conviction. The county will take appropriate action within thirty (30) days of notification. Appropriate action may include (a) personnel action against the employee, up to and including termination, or (b) require the employee to participate satisfactorily in drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement or other appropriate

agency.

- The county, as the employer, may be required to report any workplace drug crimes to a federal contracting agency within ten (10) calendar days of receiving notice of a conviction.

#### **24.02 Drug and/or Alcohol Testing**

Any drug and/or alcohol testing undertaken by the county shall be in accordance with Minnesota Statutes 181.950-.957, the Minnesota Drug and Alcohol Testing in the Workplace Act, as amended. Any employee who has a confirmed positive drug or alcohol test may be removed from their position pending review by the county and a decision regarding the employee's status. The first time an employee has a confirmed positive test result, said employee will be given an opportunity to participate in either drug or alcohol counseling or a rehabilitation program. The employee will be responsible for expenses incurred for the counseling or rehabilitation program. The employee may be subject to disciplinary action up to and including termination of employment. Any employee desiring information concerning drug or alcohol abuse counseling and/or rehabilitation programs is encouraged to contact the county's Employee Assistance Program (EAP).

For classifications requiring Commercial Drivers License (CDL), the drug and/or alcohol testing provisions are governed by the Omnibus Transportation Employee Testing Act of 1991 and the Federal Motor Carrier Safety Administration. Testing protocols that are unique to CDL classifications are referenced in Appendix A

#### **24.03 Data Disclosure**

The county will not disclose the drug and/or alcohol test result reports and other information acquired in the drug and alcohol testing process to another employer or to a third party individual, governmental agency, or private organization without the written consent of the employee tested, unless permitted by law or court order.

#### **24.04 Pre-Employment Testing**

Applicants for positions shall be notified of the required drug and alcohol testing at the time of application for employment. Pre-employment drug and alcohol testing will be given after a conditional offer of employment has been made. Receipt of a negative drug test result is required prior to employment.

#### **24.05 Post Incident Testing**

All employees **will be** subject to drug and alcohol testing when the following conditions occur:

- an accident (excluding deer/animal incidents) resulting in substantial damage, meaning the county vehicle, motorized equipment or machinery can no longer be used for its intended use;
- an accident involving a citation for unsafe or unlawful operation of a county vehicle or county owned motorized equipment;
- an accident involving a fatality;
- an accident involving a county vehicle, county motorized equipment or county machinery requiring medical treatment for any party, away from the accident site.

#### **24.06 Reasonable Suspicion Testing**

All employees **may be** subject to drug and alcohol testing if the county has a reasonable suspicion that the employee:

- is under the influence of drugs or alcohol;
- has violated the county's written work rules prohibiting the use, possession, sale, or transfer of drugs or alcohol while the employee is working or while the employee is on the county's premises or operating the county's vehicle, machinery, or equipment;
- has sustained a personal injury arising out of and in the course of employment, or has caused another person to sustain a personal injury; or
- has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

A reasonable suspicion referral for testing will be made on the basis of specific facts and rational inferences drawn from those facts.

#### **24.07 Routine Physical Examination Testing**

An employee may be required to undergo drug and alcohol testing as part of a routine physical examination which will occur not more than once annually. The employee will be given at least two (2) weeks written notice that a drug or alcohol test is being required as part of the physical examination.

#### **24.08 Random Testing**

Employees in safety-sensitive positions may be subject to drug and alcohol testing on a random selection basis. Employees in non-safety sensitive positions are not subject to random drug and alcohol testing procedures, except an employee who tests positive may be required to undergo random drug and alcohol tests pursuant to treatment program testing.

#### **24.09 Treatment Program Testing**

The county may request or require an employee to undergo drug and alcohol testing if the employee has been referred by the county for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program under an employee benefit plan. In this case, the employee may be requested or required to undergo drug or alcohol testing without prior notice during the evaluation or treatment period up to two (2) years following completion of any prescribed chemical dependency treatment program.

#### **24.10 Employee Rights during Drug and/or Alcohol Testing**

If an employee or job applicant refuses to take an alcohol or drug test, no test shall be given. However, if an employee refuses a test, they will be considered insubordinate and will be subject to disciplinary action, up to and including termination of employment. A job applicant who refuses to take a drug or alcohol test shall be deemed to have withdrawn their application for employment.

No employee or job applicant who refuses to undergo drug or alcohol testing of a blood sample upon religious grounds shall be deemed to have refused unless the employee or job applicant also refuses to undergo drug or alcohol testing of a urine sample.

Within three (3) working days after receipt of a test result report, the county will inform the employee or job applicant of a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test, and of the employee's or job applicant's right to request and receive from the county a copy of the test result report. An employee or job applicant who tests positive for drug use will be given written notice of the right to explain the positive test, and the county may request that the employee or job applicant indicate any over-the-counter or prescription medication that the individual is currently taking or has recently taken

and any other information relevant to the reliability of, or explanation for, a positive test result.

An employee or job applicant has a right to offer the county a written explanation of a positive test result on a confirmatory test within three (3) working days after notice of the positive test result. They also have the right to request within five (5) working days after notice of a positive test result a confirmatory retest of the original sample at another licensed testing laboratory at the employee's or job applicant's own expense.

#### **24.11 Consequences of Violations**

An employee violating this policy may be referred to treatment and/or be subject to disciplinary action up to and including termination of employment. Each situation will be reviewed on a case-by-case basis evaluating the severity and circumstances involved.

An employee will not be disciplined or discharged on the basis of a positive test result that has not been verified by a confirmatory test. An employee will not be discharged based on the employee's first confirmed positive test result unless: (1) the county has given the employee an opportunity to participate in either a drug or alcohol counseling or rehabilitation program, whichever is appropriate; and (2) the employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a confirmed positive test result after completion of the program.

#### **24.12 Employee Notification of this Policy**

The county will post notice that this policy providing for drug and alcohol testing has been adopted, and the county will provide a copy of this policy to every employee currently employed by the county. New employees of the county will receive a copy of this policy with their orientation materials. Every job applicant subject to drug and alcohol testing will be given a copy of this policy prior to any testing. Copies of this policy are available for inspection during regular business hours.

#### **24.13 Non-Discrimination**

The county's policy on work-related substance abuse is non-discriminatory in intent and application. In accordance with Minnesota Statutes, Chapter 363A, disability does not include any condition resulting from alcohol or drug abuse which prevents a person from performing the essential functions of the job or constitutes a direct threat to property or the safety of individuals. In accordance with the Americans with Disabilities Act, an individual who is currently engaging in the illegal use of drugs is not an "individual with a disability" when the employer acts on the basis of such use.