

ORDINANCE 2017-14

An Ordinance amending Chapter 2 of the Hope Town Code

WHEREAS, the Hope Town Council has reviewed the Hope Town Code and has determined that Chapter 2, Article 4, Employee Benefits and Employee Policies, Section 44 Random Drug Test Policy, should be amended as follows:

NOW THEREFORE, be it ordained by the Town Council of the Town of Hope, Indiana:

I. PURPOSE

The Town of Hope is firmly committed to the principles of public service and public safety. Substance abuse demoralizes and destroys mental thought processes and the job performance of Town personnel. In order to maintain the highest level of public trust, confidence, and respect, the Town must safeguard the integrity of its employees by ensuring that all personnel are free from drug use or dependence. The goal is zero tolerance.

All Town employees, and in particular supervisors, should be sensitive to substance abuse and be aware that other health problems also can have a debilitating effect on the employee, as well as the Town. Erratic behavior may indicate a physical or neurological problem inclusive or exclusive of substance abuse indicators. All should be dealt with honestly, compassionately, and effectively.

II.

POLICY

The Town's random drug testing program has been established to provide initiatives aimed at employee substance abuse prevention and employee rehabilitation as required. As a condition of continued employment, all employees must abide by the terms of this policy.

A drug program manager (DPM) appointed by the Town Council will be responsible

for managing the substance abuse program in a fair and impartial manner.

All references to the President of the Town Council shall also include his or her designee.

III.

PROCEDURE

DEFINITIONS

A. Drug(s): Chemical agents that interact with the central or peripheral nervous system of the body to produce changes that alter the body chemistry, behavior, or thinking of the person taking the drug (includes alcohol and controlled as well as legal drugs).

B. Employee: All employees of the Town, including merit employees and reserves. Volunteers are excluded. (Reserves are not volunteers for the purposes of this directive.)

C. Employee Assistance Program (EAP): A program sponsored by the Town that provides confidential assessment, counseling, and referral if necessary, at no cost to employees whose personal problems, including substance abuse, are interfering with job performance.

D. Illegal Drugs: Drugs that are not legally obtainable because they are controlled by federal or state laws; or drugs that may be legally obtainable but have been obtained illegally; or drugs that are used in a manner or for a purpose other than that allowed by law or prescribed by medical practitioners.

E. Substance Abuse: The use of illegal drugs or misuse of alcohol by Town employees.

F. Substance Testing: An analysis by scientifically accepted procedures of a sample of blood, urine, or breath to determine the presence of chemical byproducts of drugs ingested or used by a person. Testing may be used to determine the presence of alcohol, amphetamines, phencyclidine (PCP), cannabinoids, cocaine, opiates, or their derivatives, but this listing does not limit the scope of the testing.

SCOPE OF PROBLEM

While this program is more concerned with the use of illegal drugs, (which includes the misuse of legal drugs), it is also recognized that employees may suffer from a problem with alcohol misuse.

A. Employees must advise their supervisor if they are unexpectedly called to duty and feel any impairment from prescription medication or off-duty social use of alcohol. They will not be allowed to report for duty in an impaired state.

B. As part of its substance abuse policy, the Town reserves the right to conduct reasonable searches of its premises, property, workplaces, and workstations if there is reasonable suspicion to believe that an illegal substance is being stored in any of its sites.

C. Any employee arrested and/or convicted of a criminal drug statute violation in any jurisdiction must report it within 24 hours to the President of the Town Council.

MANDATORY DRUG TESTING

A. Candidates for Appointment: All candidates selected for employment with the Town will undergo a substance abuse test before being offered a position. Any applicant who

tests positive without a valid explanation will not be hired.

B. Promotions: Employees who are considered for merit promotion or appointment to higher supervisory positions are required to submit to a substance abuse test before the promotion.

C. Impaired Employees: Employees who report for work visibly impaired are presumed unable to perform their assigned duties and will not be allowed to work. If, in the reasonable judgment of a supervisor the person is impaired, he or she must immediately be taken to an approved medical facility by a supervisor for substance abuse testing. The person will be placed on administrative leave status pending the test results. An impaired person will not be permitted to drive. Supervisors must document such incidents and referrals and the reasons to the President of the Town Council.

D. Reasonable suspicion: The President of the Town Council or his designee will require substance abuse tests in any case where evidence amounting to reasonable suspicion indicates substance abuse. Factors to consider include frequent absenteeism or tardiness, decline in productivity, unusual or inappropriate work related behavior, or unusual changes in behavior or performance.

E. Annual Random Testing: Annually, 25% of all employees will be randomly selected for substance abuse testing. The tests will be conducted periodically throughout the year.

TESTING PROCEDURE

A. Illegal Drugs

1. The substance abuse tests required by this directive and chain of possession procedures will be administered as directed based on recognized standards. A copy of these guidelines will be kept on file in the Town Clerk's Office.
2. Privacy and confidentiality will be assured. Test results and attendant information will be considered confidential medical records, consistent with the requirements of the Public Records Act.
3. Test results must be interpreted by a certified medical review officer (MRO). All positive results will be confirmed by an outside laboratory from the testing site. Follow-up tests at appropriate intervals will be required of employees with confirmed positive tests.
4. After testing, employees will be notified by the MRO and given an opportunity to explain a positive test result for drugs.
5. Notification of random testing will be made by the DPM. Testing will take place within the work period when notified. Persons being selected will have 24 hours to report to the testing site. Scheduling conflicts must and will be resolved with the President of the Town Council. The President will reconfirm the availability of those directed to the testing laboratory to avoid scheduling conflicts. (Only departmental photo ID or photo driver's license will be accepted to ensure accurate information. Other information requested by the testing laboratory will be submitted by the person to be tested.)
6. Positive test results for illegal drugs will be given only to the President. Such results will also be made available to the person tested.

B. Alcohol

1. Employees will be required to submit to a test for alcohol when there is evidence amounting to reasonable suspicion that he or she is under the influence.
2. The odor of alcoholic beverage on the breath can be used as evidence to require an alcohol screening test. A follow-up Breathalyzer test must be given to confirm results of a field screening test.

EMPLOYEE ASSISTANCE PROGRAM

- A. Use of the EAP: It is the responsibility of employees to seek assistance before alcohol or other substance abuse leads to job-related problems or disciplinary actions. This may be done through the Town's Employee Assistance Program (EAP) or other programs. Any supervisor may inform employees of the purpose and benefits of the EAP. The supervisor may also suggest that a person seek a voluntary referral to the EAP.
- B. Voluntary Self-referral: Town employees may voluntarily contact the EAP or any other program for treatment. The expense for programs other than the EAP is the responsibility of the employee. If the EAP must refer an employee to another provider for treatment, it may be at the employee's expense. Medical insurance benefits may partially cover treatment. Details of the Town's EAP program may be acquired from the Town Clerk-Treasurer. Contacts and subsequent discussions with EAP staff are confidential. After being ordered to take a substance test by the department, either for cause or as a random sample, an employee may not use a voluntary self-referral as a means to escape detection.
- C. Formal Referral: A supervisor who has knowledge or a reasonable belief that an employee is abusing alcohol or illegal drugs must, with the approval of the President, direct the employee to the EAP for evaluation. This referral may be based on job performance related problems observed, discovered, or discussed during the supervisor's review of

performance, or disciplinary counseling. Supervisors will document such referrals and the reasons. Any employee voluntarily acknowledging an alcohol or other substance abuse problem will be given a reasonable opportunity to deal with the problem. However, should an employee use, or be under the influence of an illegal drug, the employee may be terminated pursuant to the applicable procedures as required by law.

D. Confirmed Positive: Employees with confirmed positive tests will be directed to the EAP for assistance and be required to follow other recommendations or requirements aimed at resolving a substance abuse problem. In addition to the above, employees may face disciplinary action.

DISCIPLINARY PROCESS

A. Merit Employees with a confirmed test result showing an illegal substance (e.g., cannabinoids, cocaine, or opiates) may be subject to dismissal proceedings before the Town Safety Board.

B. Civilian employees with a confirmed test result showing an illegal substance (e.g., cannabinoids, cocaine, or opiates) may be subject to dismissal proceedings before the supervisor and Town Council.

C. Merit Employees with a confirmed test result showing a legal drug used illegally (e.g., Tylenol 3 or another person's prescription) may be suspended or dismissed as permitted by Indiana law.

D. Civilian Employees with a confirmed test result showing a legal drug used illegally (e.g., Tylenol 3 or another person's prescription) may be subject to dismissal proceedings before the supervisor and Town Council.

E. All employees are also subject to discipline up to and including termination for any of the following:

1. Violation of the criminal drug statutes in any jurisdiction;

2. Failing to appear for drug testing as instructed;
3. Attempting to provide a false test sample; or
4. Failure to follow recommended or required treatments, or failing to successfully complete the EAP program as directed.

INFORMATION AND TRAINING

A. Supervisors will receive formal training and orientation about the substance abuse policy and program. The purpose of the training is to ensure fair and consistent implementation of the policy and program.

B. All employees will receive written notice about the substance abuse policy and program. New employees will be given written notices about this policy and program as part of the employment process.

C. Employees must read and sign an agreement form which attests that they have received a copy of the substance abuse policy and program. This completed and signed form will become part of their personnel file.

This Ordinance is hereby passed and adopted at a regular meeting of the Town Council of the Town of Hope, Indiana, this 18th of July, 2017 and is effective as of the same date.

By: _____

President

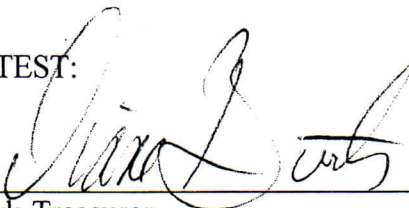
Town Council Member

Town Council Member

Town Council Member


Town Council Member

ATTEST:


Clerk-Treasurer