

**CITY OF WHITTIER, ALASKA
ORDINANCE #25-2015**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA AMENDING WHITTIER MUNICIPAL CODE CHAPTER 2.70 TO CLARIFY EMPLOYEE AND WORKPLACE DRUG POLICIES FOLLOWING STATE LEGALIZATION OF MARIJUANA.

WHEREAS, possession and consumption of marijuana is no longer prohibited by state law;

WHEREAS, the Drug-Free Workplace Act of 1988 continues to treat marijuana as a prohibited drug;

WHEREAS, federal safety regulations are unchanged by change in state law;

WHEREAS, the City's workforce deserves clear notice that marijuana and marijuana intoxication continues to be prohibited in the workplace; and

WHEREAS, the City's drug and alcohol policies should be clearly stated;

THE WHITTIER CITY COUNCIL HEREBY ORDAINS;

Section 1: Classification. This ordinance is general and permanent in nature and shall become a part of the Whittier Municipal Code.

Section 2: Amendment of Section 2.70.720. Whittier Municipal Code Section 2.70.720 is hereby amended to read as follows [underlined language is new, deleted language is overstruck]:

2.70.720 Substance abuse policy.

A. It is the policy of the City of Whittier to achieve and maintain a safe work environment free from ~~influence of~~ alcohol and drug abuse through education, intervention and, where appropriate, drug and alcohol testing and disciplinary measures in order to assure the safety and protection of City employees, residents, visitors and facilities. The City prohibits the possession, use, distribution, or sale of alcohol and ~~or illicit~~ drugs in the workplace or when conducting City business and requires employees, contractors, and volunteers to be free from ~~or illicit drugs and~~ the influence of drugs and alcohol when entering ~~upon~~ the workplace, while on duty and when conducting City business. The City ~~will not~~ cannot tolerate impairment of employee performance from the use of alcohol, drugs or other unlawful substances, including abuse of prescription drugs.

B. The City Manager shall implement a policy meeting the requirements of the Drug Free Workplace Act of 1988.

Section 3: Amendment of Section 2.70.723. Whittier Municipal Code Section 2.70.723 is hereby amended to read as follows [underlined language is new, deleted language is overstruck]:

2.70.723 Substance abuse program.

A. The City Manager shall promulgate and enforce ~~procedures for the implementation of policies implementing~~ WMC 2.70.720 consistent with the personnel administration standards and procedures contained in WMC 2.70.010 et seq., including, where appropriate:

1. Pre-employment drug testing for all safety-sensitive and public safety positions and positions required by Federal or State law or regulations to be subject to pre-employment drug testing;
2. Random drug and alcohol testing of all employees, contractors and volunteers involved in transportation or other activities who are required by State or Federal laws or regulations to submit to such random tests, at the frequency required under the State or Federal laws or regulations;
3. Post-accident drug and alcohol testing of an employee, contractor or volunteer involved in a work related accident, ~~when testing is justified, including a vehicle accident:~~
 - a. where the person to be tested is reasonably believed to have contributed to the accident and the accident results in a fatality, bodily injury to any person who, as a result of the injury, immediately receives medical attention away from the scene of the accident, damage to property reasonably believed to exceed of \$1,500, damage to a vehicle that disables it, or the issuance of traffic citation or criminal charge arising from the accident ~~when testing is justified, including a vehicle accident;~~ or
 - b. ~~other event~~ where State or Federal laws or regulations require the employees associated with the accident to submit to post accident drug and alcohol tests;
4. ~~Follow-up random~~ and ~~return-to-duty~~ drug and alcohol testing of an employee who has either tested positive on an earlier test or has agreed, as a condition of continued employment, to enter a rehabilitation program or counseling because of drug or alcohol induced problems; and
5. Reasonable-suspicion drug and alcohol testing where any supervisor or other designated person who has received the minimum training required to recognize the symptoms of substance abuse has determined pursuant to ~~established procedures~~ policies established by the City Manager that reasonable and specific grounds exist to believe that poor performance, unsafe or other acts of an employee, contractor or volunteer in the workplace are due to observed symptoms of being under the influence of drugs or alcohol.

~~The Manager, upon a determination that a position covered under the general language of this subsection (A) does not have duties or responsibilities involving possible significant threats to employee or public safety, may exempt or reduce the testing requirements applicable to such position to the extent Federal and State testing requirements do not apply to the position.~~

B. The City Manager shall maintain a list of all City positions:

1. Subject to pre-employment testing under subsection (A)(1) of this section; and
2. Subject to random testing under subsection (A)(2) of this section.

~~C. B.~~ Where a State or Federal law or regulation requires drug or alcohol testing of employees, contractors, volunteers or applicants, the City shall implement the applicable requirements. A testing program meeting applicable State and Federal requirements is deemed to meet the requirements of subsection (A) of this section. This existence of State or Federal testing requirements does not preclude the City Manager from implementing a broader drug or alcohol testing program.

~~C. The City Manager shall implement a program that will meet the requirements of the Drug Free Workplace Act of 1988.~~

Section 4: Amendment of Chapter 2.70. Whittier Municipal Code Chapter 2.70 is hereby amended to include a new Section 2.70.725, to read as follows:

2.70.725 Definitions.

In this chapter, unless the context otherwise requires:

“Drug(s)” means a substance considered unlawful under Alaska Statute Chapter 11.71 or federal law (which includes marijuana), or the metabolite of such a substance; it does not mean any controlled substance prescribed by a medical practitioner licensed to prescribe such substances when lawfully used or possessed and do not substantially interfere with job performance or safety.

Section 5: Effective Date. This ordinance is effective thirty days after adoption.

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE
WHITTIER CITY COUNCIL THIS 21st DAY OF APRIL, 2015.

Introduced by: City Manager
Introduction date: March 17, 2015
Public Hearing: April 21, 2015

ATTEST:


Brenda Krol
City Clerk


Daniel Blair
Mayor

Ayes: 6
Nays: 0
Absent: 1
Abstain: 0