

AN ORDINANCE ESTABLISHING A SUBSTANCE ABUSE POLICY FOR THE CITY OF ST. MARY, MISSOURI AND DESIGNATING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. MARY, MISSOURI, AS FOLLOWS:

SECTION 1. Alcohol, Drug and Controlled Substance Abuse.

A. Background and Covered Employees. The alcohol, drug and controlled substance abuse policy applies to all City Employees and Volunteer Firemen hereinafter referred to as: *Employee*.

The Federal Department of Transportation (DOT) specifically requires additional prohibitions, notices, testing and training for employees involved with the operations of mass transit, aviation and commercial motor vehicles. Each agency of the DOT issues regulations specific to their industry. The Board of Aldermen are responsible for developing and implementing procedures for compliance with such regulations and shall issue copies of the procedures to covered employees as appendices of the Personal Policy. In the event of any conflict between rules and regulations, the stricter rule or regulation shall govern.

B. Policy Objectives. The City has an obligation to its employees to take reasonable steps to ensure a drug free and safe place to work. The City also has an obligation to the citizens of St. Mary and the public at large to provide quality and safe services through a policy and program prohibiting alcohol, illegal drugs, and controlled substances in the workplace.

C. Policy Statement. The City prohibits the unlawful manufacture, distribution, dispensing, possession use of alcohol/intoxicants, drugs and controlled substances in the workplace. Any employee who violates this policy will be subject to disciplinary action, which may include termination.

D. Prohibitions. The Mayor and Board of Alderman of the City of St. Mary reaffirm the City's policy that, as a condition of employment, all employees will abide by the policy for a drug-free workplace and adhere to the following prohibitions:

(1) No employee shall report to work under the influence of alcohol/intoxicants, drugs, or controlled substances.

(2) Employees shall not unlawfully manufacture, distribute, dispense, possess, or use illegal drugs or controlled substances in any manner (i) on City premises or in City Vehicles at any time, whether or not performing City business, or (ii) while performing City business at any location. An employee convicted of violating any criminal drug statute on or off City property will be subject to disciplinary action, including termination.

(3) Employees shall not use City property or their position with the City in any way to make or traffic alcohol/intoxicants, illegal drugs, or controlled substances for their own purposes.

(4) Employees shall not engage in any other illegal use, possession, or trafficking of alcohol/intoxicants, illegal drugs, or controlled substances in a manner which is detrimental to the interest of the City of St. Mary.

E. Notice of Conviction. Any employee convicted of a criminal drug statute violation occurring in the workplace will notify the city administrator of such conviction no later than five (5) days after conviction.

F. Notice of Legal Drugs or Medication. Any employee who is taking a drug or medication, whether or not prescribed by the employee's physician, which may adversely affect that employee's ability to perform work in a safe or productive manner is required to report such use of medication to his or her supervisor. This includes drugs which are known or advertised as possibly affecting judgment, coordination, or any of the senses, including those which may cause drowsiness or dizziness. Employees shall not commence or continue to work if they are uncertain whether they can perform their duties safely. Failure to report shall be cause for disciplinary action up to and including termination from service.

G. Drug Awareness Program. Employees are made aware of the drug-free workplace policy and dangers of drugs in the workplace through the display and distribution of informational material. The information includes the effects and consequences of drug use on personal health, safety and the work environment, and the manifestations and behavioral cues that may indicate drug use an abuse.

H. City's Right to Search. When the City has reason to believe an employee is violating any aspect of this policy, the City may ask the employee to submit immediately at any time (including breaks and the meal period) to a search of the person, and/or to make any locker, lunch box, briefcase, purse, pockets, wallet, personal belongings, desk, vehicles, or other receptacle the employee uses or has access to, available for inspection. Entry on City premises constitutes consent to searches and inspections. Refusal to consent to a search or inspection when requested by the City constitutes insubordination and is a violation of City policy.

I. City's Right to Test. An individual may not be hired to perform a safety sensitive function unless the individual passes a drug test of urine for evidence of marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines. Any new hires and re-hires of full-time, part-time, or temporary/seasonal employees may be required to take a urine or other medical test and to agree in writing to allow the results of those tests to be furnished to and used by the City. Those persons who do not pass such test(s) shall not be employed.

An employee fireman performing a safety sensitive function who is reasonably suspected of using alcohol or a prohibited drug by the Alderman in Charge of the Department, Mayor or other Alderman, may be required to take a drug or alcohol test(s) or both. These suspicions must be based on specific contemporaneous, articulated observations concerning the appearance, behavior, speech or body odors of the driver. Alcohol testing may also be performed just before or just after the work shift of the employees.

An employee who performs a safety sensitive function that either contributed to an accident, or cannot be completely discounted as a contributing factor to an accident, may be required to take a drug test(s).

Employees who perform safety sensitive functions are subject to drug testing on an unannounced and random basis.

J. Consent. Before a drug and/or alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting releases of test results to those City officials with a need to know. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the City's drug and/or alcohol testing policy and to indicate current or recent use of prescription or over-the-counter medication.

The consent form shall also set forth the following information:

- (a) the procedure for confirming an initial positive test result;
- (b) the consequences of a confirmed positive test result;
- (c) the right to explain a confirmed positive test result and the appeal procedures available; and
- (d) the consequences of refusing to undergo a drug and/or alcohol test.

K. Failure to Test. An employee who refuses to consent to a drug and/or alcohol test when reasonable suspicion of drug and/or alcohol use has been identified is subject to disciplinary action, up to and including termination.

Any employee ordered to test shall report immediately to the test site upon being ordered to submit to testing. No delay of any type may be granted or taken. Delay in reporting by the employee shall be treated as a refusal to test and shall subject the employee to all of the consequences that flow related to positive testing. Failure to provide a sufficient sample or for providing an adulterated sample shall be considered as a refusal to test and shall subject the employee to all of the consequences that flow.

L. Laboratory Testing Requirements The City of St. Mary shall contract with an appropriately certified testing laboratory or medical facility to conduct the controlled substance testing analysis and reporting required under this policy and under the Federal Regulations in conformity with the standards established under the federal regulations. The laboratory or medical facility shall employ one to serve as the MRO properly credentialed and trained in compliance with the federal regulations.

M. Confidentiality. All records developed and/or acquired pursuant to this policy shall be maintained under strict confidentiality by the City of St. Mary, the testing laboratory and the MRO. The records shall be maintained separately from other personnel records kept by the city and shall be kept in a secure location with other medical records. Materials shall not be released to others without the written consent of the affected employee, except under provisions provided in the federal regulations, as needed with regard for rehabilitation, in litigation or quasi-judicial and administrative proceedings related to positive test results and/or to matters initiated by an employee.

N. Coordination With Other Laws & Policies. This policy shall be administered in compliance with other federal, state and local laws related to employee health and welfare policies, leave policies, benefit programs and other related policies of the City of St. Mary. In the case of apparent conflicts between this policy, other policies, and applicable laws, the policy administrator shall make the appropriate rulings to resolve the potential conflicts, whenever possible.

In the event that any part of this policy is judicially determined to be in conflict with any law or to be in violation of any law or is rendered ineffective because of some state or federal legislative enactment, that part(s) shall be void, but the remainder of the policy shall remain in effect. Parts that are void or voided shall be replaced as soon as possible so as to maintain the full effect of this policy and/or to bring it into compliance with relevant laws.

This policy is subject to amendment by the City of St. Mary from time to time. Amendments that are made shall be provided to employees upon adoption and shall become effective as provided by the policy administrator.

SECTION 2. All ordinances or parts of ordinances in conflict are hereby repealed.

SECTION 3. This ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this the 18th day of March, 1998

ATTEST:

Jo Ann E. Donze
CITY CLERK JOANN E. DONZE

Carlton Wyatt
MAYOR CARLTON WYATT

<u>ALDERMAN</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Robert Bequette	X			
Roger Odem	X			
Douglas Roderique	X			
Robert Schultz	X			

I, JoAnn E. Donze, Clerk of the City of St. Mary, Missouri, do hereby certify that the foregoing ordinance was duly passed and adopted by the Board of Alderman at a regular meeting thereof assembled this the 18th day of March, 1998.

Jo Ann E. Donze

CITY CLERK JOANN E. DONZE