



# POLICY # PE 030

## DRUG AND ALCOHOL POLICY

DEPARTMENT: PERSONNEL

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| <b>APPROVAL DATE:</b>     | 2017-12-18 (December 5, 2017) |
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### Policy Statement

The County of Vermilion River (the “County”) is committed to ensuring the health and safety of its employees, contractors, and the public at large. The County recognizes and accepts the responsibility to provide its employees with a safe, healthy, and productive work environment. Employees have the responsibility to report to work capable of performing their tasks productively and safely. The use of drugs, including illegal drugs, the improper use of prescription or non-prescription medication, and the use of alcohol or other intoxicants can have serious adverse effects on the safety of the workplace for employees, contractors, and the public at large.

### Purpose

The purpose of this Policy is to establish the County’s expectations for appropriate behaviour, the consequences for non-compliance, and to provide consistent guidelines for all employees.

#### **1. Definitions**

- 1.1 “Drugs” means any substance, inclusive of illicit drugs, restricted drugs, and medication, as defined by this Policy, the use of which has the potential to cause impairment or intoxication, changing or affecting the way a person thinks, feels, or acts. For the

purposes of this Policy, drugs of concern are those that inhibit a worker's ability to perform his or her job safely and productively.

- (a) "Illicit Drug" means any drug or substance that is not legally obtainable and whose use, sale, possession, purchase or transfer is prohibited by law (for example, street drugs such as heroin and cocaine).
  - (b) "Restricted Drug" means any drug or substance capable of causing intoxication or impairment which is legally obtainable for recreational use and whose sale, purchase, possession, or transfer are restricted by law.
  - (c) "Medication" refers to a drug obtained legally by an employee and used as indicated or directed, including but not limited to those obtained by the employee with a doctor's prescription or medical document, as contemplated by the *Access to Cannabis for Medical Purposes Regulation* (as amended, repealed and replaced from time to time), and non-prescription or over-the-counter products.
- 1.2 "Under the influence" of Drugs, alcohol, intoxicants or any controlled or uncontrolled substance for the purpose of this Policy is defined as the use of one or more of these substances to an extent that an employee is:
- (a) Unable to perform in a productive manner;
  - (b) In a physical or mental condition that creates a risk to the safety and well-being of the individual, other employees, the property of the County or any member of the public; or
  - (c) Displaying signs or symptoms of substance use, including but not limited to the smell of alcohol on breath, slurred speech, or atypical behaviour.
- 1.3 "Drug or alcohol dependence" means a mental, physical, or psychological dependence on Drugs, alcohol, or other impairing substances which is considered by a physician to be a medical condition/disability as contemplated by Human Rights law.
- 1.4 "Recreational Drug/alcohol or other substance use": With recreational use of Drugs, alcohol, or other impairing substances, there is no mental, physical or psychological dependence; therefore, this is not considered a medical condition or mental, physical, or psychological disability as contemplated by Human Rights law.
- 1.5 "Safety sensitive positions" shall include any position where the performance of duties with impaired physical or mental abilities creates a reasonably foreseeable risk of injury, harm, or danger, including, but not limited to those employees who are required or permitted to operate the County's vehicles, equipment, or their own personal vehicles for employment-related purposes.

## 2. **Treatment and Accommodation**

- 2.1 Any employee suffering from a Drug or alcohol dependence is **required** to disclose the dependence to the employee's immediate supervisor and Human Resources. The County recognizes its responsibility to assist and accommodate employees suffering from a Drug or alcohol dependence to the extent reasonably possible without suffering undue hardship. The County will take the utmost precautions to protect the employee's confidentiality given the sensitive nature of the issue.
- 2.2 Further, employees who are concerned that a fellow employee may be suffering from a Drug or alcohol dependence are strongly encouraged to report their concerns to the employee's immediate supervisor and Human Resources. While the County will make its best efforts to protect employees' confidentiality when a concern is reported, it may be necessary for the County to disclose certain information, including but not limited to the identity of the reporting employee, to the employee in question in order to properly investigate concerns.

### **3. Prohibitions**

- 3.1 During an employee's working hours, whether on the County's premises or while conducting employment-related activities off the County's premises, including during meal periods, scheduled breaks, and on-call shifts, no employee shall:
- (a) use, consume, possess, distribute, sell or be under the influence of Illicit Drugs;
  - (b) use, consume, possess, distribute, sell or be under the influence of Restricted Drugs;
  - (c) consume, ingest, or otherwise be under the influence of alcohol, unless authorized by the County for a specific limited purpose; or
  - (d) consume, ingest, use or inhale any other intoxicants, controlled or uncontrolled substances.
- 3.2 An employee shall not, under any circumstances, consume alcohol or use, consume, ingest, or inhale Illicit Drugs, Restricted Drugs or other intoxicants while in care and control of or responsible for any County vehicle or equipment, or while using the employee's vehicle for work-related purposes.
- 3.3 If an employee is called back after regular working hours to perform work-related duties and has been consuming alcohol or using Drugs or other intoxicants, it is the employee's responsibility to:
- (a) Under no circumstances operate a motor vehicle while under the influence of alcohol, Illicit Drugs, Restricted Drugs, or Medication, if impairment has resulted, or any other intoxicant or substance;
  - (b) Notify the employee's supervisor of the circumstances immediately; and

- (c) Obtain assistance from a responsible employee who is not under the influence of alcohol, Drugs, or intoxicants to perform the required task.

3.4 The legal use of Medication in compliance with physician directions is permitted at work only if it does not impair the employee's ability to perform his or her work effectively and in a safe manner. Employees are required to disclose to their immediate supervisor and Human Resources the use of Medication which may affect their work performance or the safe execution of their duties. The County is committed to accommodating an employee's necessary use of Medication to the extent reasonably possible without suffering undue hardship.

#### **4. Testing**

4.1 Any testing undertaken pursuant to this Policy, including analysis of results, shall be performed by a qualified professional. Where appropriate, results shall be confirmed by laboratory testing, which shall be performed at an accredited laboratory.

4.2 Where reasonably possible, all testing conducted pursuant to this Policy shall be conducted respectfully and in a manner intended to minimize the intrusive nature of the tests.

#### **5. Reasonable Cause Testing**

5.1 The County reserves the right to conduct testing for the presence of alcohol, or Drugs when it has reasonable cause to believe that the actions, appearance or conduct of an employee while on duty (including while on-call) is indicative of the use of Drugs or alcohol . While the County reserves this right for all of its employees, employees should understand that the necessary threshold to establish reasonable cause in the eyes of the County will be lower for employees in safety-sensitive positions given the potential consequences involved.

5.2 The basis for the decision to test will be documented as soon as possible after the action has taken place. The referral for the test will be based on specific, personal observations resulting from, but not limited to:

- (a) Observed use or evidence of use of Drugs or alcohol (e.g. smell of alcohol);
- (b) Erratic or atypical behaviour of the employee;
- (c) Changes in physical appearance of the employee;
- (d) Changes in behaviour of the employee;
- (e) Changes in speech patterns of the employee;
- (f) Discovery of Drugs, inclusive of Medication capable of causing impairment, alcohol, intoxicants or related paraphernalia found in locations to which an

employee has sole or primary access, including employees' lockers or assigned vehicles; or

- (g) Following a serious incident or accident where the possibility of Drug or alcohol impairment cannot be easily ruled out from review of the circumstances, including a "significant incident" as defined by Occupational Health & Safety legislation, and a situation which created significant potential or risk for an incident or accident, even if an incident or accident did not ultimately result (a "near miss").

- 5.3 In addition, the County may conduct reasonable cause testing upon receipt of a complaint or concern by a co-worker or third party that an employee may be using Drugs, alcohol or other substances contrary to this Policy. In such circumstances, the County shall record the name and contact information of the complainant as well as the details of the concern or complaint. The County shall provide the details of the concern or complaint to the accused employee and, in appropriate circumstances, shall also provide the complainant's identity to the accused employee to allow him/her the opportunity to provide a full and complete response to the allegations.
- 5.4 In all situations where the County believes an employee is unfit to be at the workplace, a responsible escort will be used to escort the employee home.
- 5.5 Where reasonably possible, tests shall be conducted respectfully and in a manner to minimize the intrusive nature of the tests. Human Resources will contact the alcohol and drug testing provider to schedule a test. The process is to be completed as soon as possible after the incident or observation which is deemed within the guidelines of this Policy. The drug testing will be performed in compliance with the testing procedures as defined by the drug and/or alcohol testing facility. Positive test results shall be reviewed and verified by a physician to confirm if a Drug or alcohol dependency exists.

## **6. Test Results Storage**

- 6.1 The County will store test results in a secure location with access restricted to the CAO, Directors, and Human Resources with a demonstrable need for access to test results, in order to preserve employee privacy. Test results will not be disclosed to third parties without prior written consent of the employee, subject only to a legal requirement for the County to produce employee test results.

## **7. Discipline**

- 7.1 The County views the rules contained in this Policy to be of the utmost importance. This is a zero-tolerance policy; any deviation from the above terms will result in disciplinary action that may include immediate termination. All employees will be provided with a copy of this Policy as notification that any resulting dismissal will be considered as "dismissal for just cause" and not subject to notice or pay in lieu of notice.

7.2 As indicated above, any employee suffering from a Drug or alcohol dependence is required to disclose the addiction, and the County recognizes its responsibility to assist and accommodate employees suffering from such a condition. However, if an employee neglects or refuses to disclose a Drug or alcohol dependence to the County in violation of this Policy, the County will be forced to deal with breaches of this Policy based on the understanding that the employee is not suffering from a Drug or alcohol dependence, but has simply disregarded this Policy, in which case immediate and strict disciplinary action will be taken. Further, failure to disclose a Drug or alcohol dependence is a violation of this Policy.

## **8. Post-Violation Return to Work**

8.1 Seeking voluntary assistance for Drug or alcohol dependence will not jeopardize an employee's employment with the County, so long as the employee continues to co-operate and seek appropriate treatment for his or her disclosed problem and is able to treat and control the problem to facilitate a return to work within the reasonably foreseeable future.

8.2 Any employee violating this policy who is subsequently authorized and accepted by the County, to return to the workplace shall receive a Return to Work Letter outlining conditions of the return to the workplace which will normally include, but is not limited to, the following:

- (a) Requirement to continue treatment, counselling and assistance programs or procedures recommended by the employee's advising physician or addiction counsellor;
- (b) Express obligation to immediately cease performance of duties and notify a supervisor in the event the employee finds themselves under the influence at any time during work hours following a return to the workplace;
- (c) Requirement to provide written medical confirmation that the employee has any condition under control and is able to safely return to the workplace without danger to the employee or others;
- (d) Requirement to provide reasonably regular updates from the employee's physician or addiction counsellor confirming that the employee continues to follow recommended treatment programs and continues to be fit for performance of duties without danger to themselves or others; and
- (e) An express warning to the employee that future violations of the Policy will lead to further discipline and serious consideration of immediate termination for just cause.

8.3 Employees suffering from Drug or alcohol dependence who fail to co-operate with assistance or treatment programs or engage in repeated infractions of this Policy, will be subject to the normal disciplinary sanctions, up to and including immediate termination for just cause.