

# CITY OF RIPON ALCOHOL AND DRUG USE POLICY

## I. INTRODUCTION

The City of Ripon recognizes that behavior resulting from the use of alcohol and/or other drugs may detrimentally affect work performance, safety, security, and public confidence in the City's workforce. The use of alcohol and/or other drugs can present a risk to City employees and the health and welfare of the citizens of this City.

In recognition of the City's responsibility to maintain a safe, healthy, and productive work environment, and each employee's responsibility to perform effectively and efficiently, the City has enacted this policy. The goal of this policy is to eliminate drug and alcohol use from the workplace. This is to ensure that employees are in a condition to perform their duties safely, effectively, and efficiently in the interests of themselves, their fellow workers, and the public. The presence of drugs or alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective.

## II. APPLICATION

This policy applies to all City of Ripon employees, except as this policy is superseded by federally mandated drug and alcohol policies. Compliance with this policy is a condition of employment.

This policy applies to alcohol and to all substances, drugs, or medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of their job. This policy shall exclude from the disciplinary provisions contained herein the authorized handling of drugs and/or use of alcohol by City employees in the performance of their duties.

In the event a dispute arises with respect to the interpretation or application of this policy, such dispute shall be appealed pursuant to the City of Ripon Merit System Rules and Regulations.

## III. PURPOSE

The purpose of this policy is to outline the responsibilities of City of Ripon supervisors and employees regarding alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of their job

All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination.

## IV. POLICY

### A. Prohibitions:

1. Employees shall not be at work under the influence of any controlled substance, including narcotics (including marijuana), prescription drugs not lawfully prescribed, or alcohol.

2. Employees shall not use, possess, sell, solicit, distribute, or manufacture alcohol or any illegal substance while at the work place, operating a City vehicle, or wearing a City uniform. An exception exists for sworn City police officers whose duties require possession of drugs and/or possession or consumption of alcohol in the course and scope of their job duties (i.e. undercover assignments). An employee consuming alcohol in the course and scope of their job duties must have prior approval by the Chief of Police or designee, for that specific event.
3. Employees shall not consume, ingest, distribute, or use cannabis, cannabis infused products, and/or other cannabis substances at work due to the high probability that it will impair work performance. Although pursuant to Proposition 64 California legalized adult possession and consumption of marijuana for recreational use, and pursuant to Proposition 215 California law permitted the use of medical marijuana, these laws have no effect on the workplace or this policy. In the case of *Ross v. Ragingwire* (2008) 42 Cal.4th 920, the California Supreme Court held that employers are not required to permit an employee's medicinal marijuana use as a reasonable accommodation. Likewise, Proposition 64 states in Health & Safety Code section 11362.45, subdivision (f), that it does not restrict the rights of employers to maintain a drug and alcohol free workplace. Accordingly, the prohibitions set forth in this policy apply to marijuana in all forms (e.g. use through smoking, eating, vaping, etc.).

B. Drug / Alcohol Testing:

1. Employees whose ability to work or whose job performance is impaired because of the use of alcohol or drugs will be in violation of this policy.
2. Employees reasonably believed to be under the influence of a controlled substance shall be prevented from engaging in further work. The City has no authority to detain, but may notify the police of the employee's condition.
3. The City may require a blood test, urinalysis, or other drug and/or alcohol screening of employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work. The City will consider any employee refusing to submit to a drug and/or alcohol screening as insubordinate, which may lead to discipline, up to and including termination.

C. Medical:

1. The City of Ripon is committed to providing reasonable accommodation to those employees whose drug and/or alcohol problem classified them as disabled under federal and/or state law.
2. Use of medically prescribed medications and drugs, as directed by the employee's physician, is not a violation of this policy. An employee must notify their supervisor before beginning work when taking medications or drugs, including but not limited to: prescription drugs, over the counter medications, or illegal drugs or narcotics (including marijuana) which could interfere with the safe and effective performance of their duties or operation of City equipment. Failure to do so may result in

discipline.

3. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required. This policy does not require or request the health care provider or the employee to identify any prescription drug or the medical condition for which it is prescribed.

D. Conviction:

1. Under the federal Drug-Free Workplace Act, any City employee convicted of violating a criminal drug statute (including a plea of nolo contendere) while in the workplace must notify the City within five (5) days of the conviction. This notification to the City of the conviction will not relieve the employee from any disciplinary consequences of the conduct upon which the conviction is based. Within thirty (30) days of such notice, the City will take appropriate action as to the employee. The City Administrator or a designee shall notify granting agencies within ten (10) days of receiving notice of a workplace drug conviction, whether the notice is received from the convicted employee or otherwise.

E. City Diligence:

1. In order to enforce this policy and ensure the safety of all City employees, the City, unless unlawful by Public Safety Officers Procedural Bill of Rights (POBR) or other rules and regulations, reserves the right to search all areas and property over which the City maintains full or joint control with the employee for the purpose of detecting alcohol, cannabis, cannabis-infused products, or illegal drugs. Areas jointly controlled by the City and the employee include, but are not limited to, desks, lockers (even if locked), work stations, filing cabinets, and vehicles. Employees have no reasonable expectation of privacy with respect to any City property. The City will make a reasonable effort to contact the employee before conducting the search. However, the City can conduct an inspection at any time, with or without notice, and regardless of whether any employee is present.
2. The City Administrator or a designee shall establish and maintain a drug-free awareness program to inform City employees regarding:
  - a. The dangers of drug or alcohol use in the workplace.
  - b. The City's policy of maintaining a drug- and alcohol free workplace.
  - c. The availability of drug or alcohol counseling, rehabilitation, and employee assistance programs.
  - d. The penalties that may be imposed upon employees for drug or alcohol use violations occurring in the workplace.
3. The decision to discipline or discharge will be carried out in conformance with reference to the City of Ripon's pertinent discipline procedures.

## V. EMPLOYEE RESPONSIBILITY

An employee must:

- A. Be able to perform the duties of their position without the impairment of alcohol or a controlled substance.
- B. Not report to work for their regular work schedule while their ability to perform job duties is impaired due to alcohol or drug use.
- C. Disclose to their supervisor, if being called in to work on an unscheduled shift, if they have recently consumed alcoholic beverages or impairing drugs. There shall be no discipline if an employee is unable to report to work in this situation.
- D. Refrain from alcohol or drug use while on call and be ready to perform their duties as they would when reporting for a regular shift.
- E. Not possess, use, or consume alcoholic beverages or impairing drugs during work hours or any paid time, except when possession and/or use is prescribed by a medical doctor and approved by the employee's supervisor or required in the course of Police Department employment.
- F. Not directly, or through a third party, knowingly sell or provide drugs or alcohol to any person, including any employee, while either employee or both employees are on duty or officially on-call.
- G. Submit to a drug and/or alcohol screening or test when the City has reasonable suspicion they are under the influence of drugs or alcohol in the workplace.
- H. Notify their supervisor before beginning work, when taking any medications or drugs (prescription or nonprescription) which may interfere with the safe and effective performance of duties or operation of City equipment.

## VI. SUPERVISOR RESPONSIBILITIES AND GUIDELINES

- A. Supervisory employees are responsible for reasonable enforcement of this policy.
- B. Supervisor should ask the employee if anything is preventing them from reporting to work to effectively and safely perform the functions of their job if the employee is being called in for an unscheduled shift.
- C. Supervisors shall not demand employees report to work when being called in for a scheduled or unscheduled shift if the employee feels that their ability to perform their job duties are impaired due to alcohol or drug use.
- D. If the employee's status is in question, the Supervisor shall make the final determination on whether the employee reports to work for an unscheduled shift.

- E. Supervisors may request that an employee submit to a drug and/or alcohol screen/test when they have reasonable suspicion that an employee is under the influence of drugs and/or alcohol while at work.

"Reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol. Examples of objective factors include, but are not limited to:

1. Slurred or altered speech.
2. Alcohol odor on breath.
3. Unsteady walking or movement.
4. Abnormal or erratic behavior.
5. Possession of alcohol or drugs.
6. An accident involving City property or equipment.

- F. Any supervisory employee suspecting an employee of drug and/or alcohol use will document in writing the facts constituting reasonable suspicion that the employee in question is under the influence of alcohol or drugs. It is the responsibility of the supervisory employee to ensure appropriate disciplinary action is taken.

## VII. DRUG AND/OR ALCOHOL TESTING

The City has discretion to test employees for alcohol and drug use. The City will use an outside laboratory to perform all testing.

The City may require a blood test, urinalysis, or other drug and/or alcohol screening of employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work.

The Supervisor must record the factors that support reasonable suspicion in writing and provide to Human Resources within 24 hours. The employee will be relieved from duty, transported to the testing facility and to their home after the test. The employee will be placed on sick or other paid leave until the test results are received.

The drug and/or alcohol test will be administered by Sutter Gould Medical Foundation, 600 Coffee Road, Modesto, California, or by any other testing facility, which is chosen jointly by the bargaining unit and the City. The facility must be licensed and certified by the California Department of Health Services, Laboratory Field Service and comply with the scientific and technical guidelines for Federal Drug Testing Programs and the standards of the Alcohol, Drug Abuse and Mental Health Administration of the U.S. Department of Health and Human Services. The drug and/or alcohol test may look for any substance, which could impair an employee's ability to effectively and safely perform the functions of their job.

## VIII. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

The City will investigate an employee who receives a positive test result to gather all facts, which will include an employee interview. The City has the right to decide whether to discipline or terminate the employee in conformance with City policies and due process rights of the employee.

## IX. EMPLOYEE ASSISTANCE PROGRAM

The City has a well-established voluntary Employee Assistance Program (EAP) in place to assist employees and their eligible family members in addressing alcohol and drug dependency.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the City's EAP. The City of Ripon will support those who seek help voluntarily and will be equally firm in identifying and disciplining those who do not seek help or whose continued substance abuse either violates City rules or interferes in the employee's job performance.

Employees may utilize sick leave for self-referral appointments during regular work hours if the employee is unable to schedule an appointment during off-work hours. Any earned leave time may be utilized for EAP participation. If an employee requires additional leave time, they may request a medical leave of absence subject to approval.

Supervisors should encourage employees to use the EAP when usual supervisory actions do not improve deteriorating or unsatisfactory job performance or when a specific on-the-job incident is cause for concern.

An employee who seeks voluntary assistance prior to being notified of any discipline or request for testing by the employer, shall not be disciplined or illegally discriminated against for seeking such assistance. Requests for such assistance shall remain confidential and shall not be revealed to other employees or management personnel without the employee's consent.

## X. CONFIDENTIALITY

Applicants will be required to fill out a consent to release medical records form when the test is administered. Laboratory reports or test results may be disclosed to City of Ripon management on a strictly need-to-know basis and to the tested applicant, or to the designated representative of the tested applicant, upon request. Disclosures, without patient consent, may also occur when law compels the information or by judicial or administrative process; the information has been placed at issue in a formal dispute between the employer and applicant; or the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

## XI. FEDERAL TRANSIT ADMINISTRATION ALCOHOL AND DRUG REGULATIONS

In addition to this policy, employees who drive and/or maintain transit vehicles are subject to the policy in Attachment A which is in compliance with Federal Transit Administration Alcohol and Drug regulations.

## XII. LIVING DOCUMENT

The City of Ripon Alcohol and Drug Use Policy is a living document that shall be updated and modified to reflect the most current status of the City's compliance efforts. See Attachment B: Revision History. It will be available on the City's website and on file in the City Clerk's Office.

# Attachment A: Alcohol and Drug Policy

In compliance with Federal Transit Administration Alcohol and Drug regulations

## City of Ripon

### Alcohol and Drug Policy

In compliance with Federal Transit Administration Alcohol and Drug regulations

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# 1. Purpose of Policy

This policy complies with 49 CFR Part 655, as amended and 49 CFR Part 40, as amended. Copies of Parts 655 and 40 are available in the City Clerk's office and can be found on the internet at the Federal Transit Administration (FTA) Drug and Alcohol Program website <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655.

In addition, DOT has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

## 2. Covered Employees

This policy applies to every person, including an applicant or transferee, who performs or will perform a "safety-sensitive function" as defined in Part 655, section 655.4.

You are a covered employee if you perform any of the following:

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver's license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

A volunteer is a covered employee if:

- (1) the volunteer is required to have a commercial driver's license to operate the vehicle; or
- (2) the volunteer performs a safety-sensitive function and receives remuneration in excess of his or her actual expenses incurred

See Appendix A for a list of covered positions by job title.

## 3. Prohibited Behavior

Use of illegal drugs is prohibited at all times. Prohibited drugs include:

- marijuana
- cocaine
- phencyclidine (PCP)
- opioids
- amphetamines

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test with a result of less than 0.02 prior to performance.

All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

All covered employees required to take a post-accident test are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

## 4. Consequences for Violations

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and provided with contact information for Substance Abuse Professionals (SAPs).

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of their next regularly scheduled duty period (but for not less than eight hours) unless a retest results in the employee's alcohol concentration being less than 0.02.

## 5. Circumstances for Testing

### Pre-Employment Testing

Pre-employment alcohol tests are conducted after making a contingent offer of employment or transfer. All pre-employment alcohol tests will be conducted using the procedures set forth in 49 CFR Part 40. An alcohol test result of less than 0.02 is required before an employee can first perform safety-sensitive functions. If a pre-employment alcohol test is cancelled, the individual will be required to undergo another test with a result of less than 0.02 before performing safety-sensitive functions.

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

If a covered employee has not performed a safety-sensitive function for 90 or more consecutive calendar days, and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function.

A covered employee or applicant who has previously failed or refused a DOT drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

## Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when City of Ripon has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

## Post-Accident Testing

Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

### Fatal Accidents

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by City of Ripon using the best information available at the time of the decision, will be tested.

### Non-fatal Accidents

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
- (2) One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
- (3) The vehicle is a rail car, trolley car or bus, or vessel, and is removed from operation, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by City of Ripon using the best information available at the time of the decision, will be tested.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

## Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year by the FTA administrator. The current year testing rates can be viewed online at [www.transportation.gov/odapc/random-testing-rates](http://www.transportation.gov/odapc/random-testing-rates).

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

A covered employee may only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

## Return to Duty Testing

Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by a substance abuse professional (SAP), complete a SAP-required program of education and/or treatment, and provide a negative return-to-duty drug test result and/or an alcohol test result of less than 0.02. Any return-to-duty drug testing will be directly observed. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

## Follow-up Testing

Employees returning to safety-sensitive duty following a return-to-duty test will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one (1) to five (5) years, as directed by the SAP. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the SAP.

A covered employee may only be subject to follow-up alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after

the employee has ceased performing such functions. A covered employee may be subject to follow-up drug testing anytime while on duty. All follow-up drug tests will be directly observed. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

## 6. Testing Procedures

All FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

### Dilute Urine Specimen

If there is a negative dilute test result, City of Ripon will conduct one additional retest. The result of the second test will be the test of record.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

### Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. City of Ripon guarantees that the split specimen test will be conducted in a timely fashion. Employee will not be required to pay for the test.

## 7. Test Refusals

As a covered employee, you have refused to test if you:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by City of Ripon.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to provide a specimen for a drug or alcohol test. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient specimen for a drug or alcohol test without a valid medical explanation.
- (6) Fail or decline to take a second drug test as directed by the collector or City of Ripon.
- (7) Fail to undergo a medical evaluation as required by the MRO or City of Ripon's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine drug test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.

(12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).

(13) Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions, and provided with contact information for SAPs.

## 8. Contact Person

Any questions regarding this policy should be directed to the following individual:

Lisa Roos, City Clerk  
259 N. Wilma Ave.  
Ripon, CA 95366  
209-599-2108

## Appendix A: Covered Positions

<b>Job Title</b>	<b>Job Duties</b>	<b>Testing Authority</b>
Public Works Maintenance	Job duties include the general repair and maintenance of City of Ripon CNG buses.	Department of Transportation (DOT)
Volunteer Bus Drivers	Transport passengers upon request.	Department of Transportation (DOT)

## Attachment B: Revision History

The following table shows the revision history for the City of Ripon Alcohol and Drug Use Policy.

Revision Number	Description	Date	Revision Number	Description	Date
1	Adopted policy. Res. No. 92-82	12/1/1992	16		
2	Updated current policy to comply with current laws. Res. No. 23-14	4/11/2023	17		
3	Updated current policy to include Attachment A – Alcohol and Drug Policy (in compliance with FTA regulations), Attachment B – Revision History, and to declare policy a living document.	11/12/2024	18		
4			19		
5			20		
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