

# Drug Free Workplace Ordinance

GENERAL ORDINANCE # 2014-2

## **Section 1 Overview**

WHEREAS, the Town of Millersburg, Indiana makes a commitment to provide employees a safe working environment, to ensure that employees, equipment and operating practices comply with health and safety standards, and to maintain public confidence in the Town and its employees. Since the Town of Millersburg values each employee, the Town offers employees assistance in dealing with alcohol and drug abuse problems.

## **Section 2 Policy**

WHEREAS, the Town of Millersburg requires all employees to report for work in a condition that allows them to perform their duties in a safe and efficient manner. Employees will not be permitted to work under the influence of alcohol or with prohibited drugs in their systems thereby affecting job performance.

Violation of any provision of this Ordinance will be considered just cause for disciplinary action up to and including discharge, even for a first offense. In addition, refusal to adhere to any part of the policy may be considered an act of insubordination and also may lead to disciplinary action up to and including discharge.

This Ordinance and related procedures may be modified by the Town at any time in order to comply with any applicable federal, state or local laws or to better serve the needs of the Town.

## **Section 3 Prohibited Drugs**

Prohibited drugs are defined as illegal substances, including controlled substances as defined in the Controlled Substance Act (21 U.S.C. 8120 and the Code of Federal Regulations (21 C.F.R. 1308.11-1308.15) and prescription controlled substance which have not been prescribed by a licensed physician or dentist for specific treatment purposes for the employee. Abuse of prescription or over-the-counter drugs will also be treated as a substance abuse problem under this Ordinance.

This Ordinance prohibits the illegal use, sale, transfer, distribution, possession, or unlawful manufacture of narcotics, drugs, or other controlled substances while on the job or on Town premises (including vehicles used for Town business). These include but are not limited to marijuana, cocaine, crack, PCP, heroin, LSD, amphetamines, hallucinogens, and barbiturates. Any illegal substances found on such premises will be turned over to the state police and may lead to criminal prosecution.

## **Section 4 Alcohol**

The use of alcohol on the job or on Town premises is prohibited, unless such use is non-abusive and is part of an authorized official event held off Town premises. The use of alcohol in vehicles used for Town business is strictly prohibited.

Alcohol possession applies to all open or unsealed alcoholic beverage containers. Such containers are not allowed on the job or on Town premises, unless their possession is part of an authorized official event. Possession of such containers in vehicles used for Town business is never authorized.

## **Section 5 Reporting Violations**

Employees must as a condition of employment, abide by the terms of this Ordinance and report any conviction to the Town under a criminal drug statute for violations occurring on or off Town premises when conducting Town business. Report of a conviction must be made to the Town within five (5) business days after the conviction. The Town will then notify the appropriate contracting officer within ten (10) days after receiving notice from either the employee or from another source. (These requirements are mandated by the Drug-Free Workplace Act of 1988.)

An employee who is involved with off the job illegal drug activity may be considered in violation of this Ordinance. In determining whether disciplinary action will be imposed for this activity, the Town will consider the circumstance of each incident, including but not limited to any adverse effect the employee's actions may have on its customers, other employees, the public, or the Town's reputation and image.

Any questions regarding the reporting of violations should be directed to the Clerk-Treasurer.

#### **Section 6 Employee Rehabilitation**

Health maintenance is primarily a personal responsibility and it is the individual's responsibility to correct unsatisfactory job performance or behavioral problems caused by alcohol or drug abuse. In an effort to assist employees, the Town will provide various means for employees and their family members to remain aware of the dangers of substance abuse in the workplace and to overcome drug and alcohol related problems.

Employees with a personal, alcohol or drug related problem are encouraged to volunteer to participate in a approved rehabilitation program upon referral from the Employee and Family Assistance Program, before work performance becomes affected.

Participation in a rehabilitation program will not be considered a barrier to employment nor a cause for disciplinary action. Employees will not be disciplined merely because of participation in a rehabilitation program or excused from the disciplinary consequences of conduct which is in violation of this Ordinance or any other Town policies or job requirements.

Any employee identified through a Town investigation as having a substance abuse problem also may not avoid disciplinary action by requesting to participate in an approved rehabilitation program.

Circumstances in each case will be evaluated to determine the course of action to be taken (i.e., whether the employee will be offered the opportunity to participate in a rehabilitation program and/or will be subject to discipline.)

#### **Section 7 Testing**

The Town of Millersburg, Indiana will not ask employees to submit to random alcohol or drug tests.

Alcohol or drug tests may be required for employees in the following circumstances:

- 1 When unsatisfactory job performance or other employee behavior is reasonably indicative of substance abuse.
- 2 During and after participation in a drug or alcohol rehabilitation program for a reasonable period of time as determined by the Town.
- 3 When required by law.

If a supervisor identifies an employee with a behavior pattern and/or job performance reasonably indicative of substance abuse, the supervisor (with the concurrence of the next level of supervision) may recommend that the employee have a fitness for duty examination by a physician designated by the Town. The physician will determine whether a fitness for duty examination is necessary and whether alcohol or drug tests will be required.

Pre-employment drug testing is part of the pre-employment physical. The method of testing will be determined by the Town. Applicants who test positive for prohibited drugs in their systems will not be offered employment. Any questions regarding reapplication opportunities should be directed to the Clerk-Treasurer.

**Certification of Adoption**

It is hereby certified that this Ordinance Number 2014-2 was passed by the Town Council of the Town of Millersburg, Indiana, at its legally convened meeting of 1/22/14.

Patricia Barkhoff  
Name, Title (Chief Elected Official)

Jim Winkler  
Signature

Attested By:

Patricia Barkhoff Clerk-Treasurer  
Name, Title Signature

Date 1/22/14