

RESOLUTION NO. 93-222

**A RESOLUTION ESTABLISHING A DRUG/ALCOHOL POLICY  
FOR DELTA CITY EMPLOYEES**

The City Council of the City of Delta, Utah, referred to herein as the "City Council", hereby recites the following as the basis for adopting this resolution:

RECITALS

A. The City of Delta ("Delta City") has a public trust to provide a variety of services to the community. An efficient and productive work force is vital to carry out that trust. The public has a reasonable right to expect persons employed by Delta City to perform their duties free from the effects of drugs, including alcohol.

B. Delta City has an obligation to ensure public safety through the actions of its employees. Furthermore, employees of Delta City have a reasonable right to work in a safe environment free from the effects of drug use. Delta City has a reasonable right to expect employees to report for work fit for duty and free from the effects of drug use.

C. Delta City recognizes that an employee's physical condition affects job performance, and that drug abuse ranks as one of the major health problems in our society. It is the intent of this policy to express Delta City's viewpoint on drug usage exhibited by behavioral and medical disorders, to encourage an enlightened viewpoint toward these disorders, and to provide guidelines for consistent handling of situations arising from such disorders.

D. No part of this policy, nor any of the related procedures, is intended to affect the City's right to manage its work place and discipline its employees, or to guarantee employment, continued employment, or terms or conditions of employment. In addition, Delta City desires to promote compliance by all City employee's with the laws regarding the illegal use of drugs and alcohol.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Delta, Utah:

**Section 1. Drug/Alcohol Policy - Adopted.** The document attached hereto entitled "A Drug/Alcohol Policy for Delta City Employee" is hereby adopted by the City Council.

**Section 2. Administration.** The Mayor, as the Delta City Chief Executive Officer, is ordered to implement this policy in

accordance with federal and state laws and appropriate Delta City procedures.

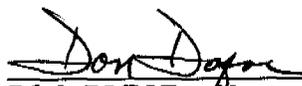
**Section 3. Effective Date.** This resolution shall become effective upon adoption.

**Section 4. Notice.** A copy of the attached policy statement shall be provided to each Delta City employee. The City Recorder is directed to file a signed copy from each Delta City employee to be placed in his/her personnel file.

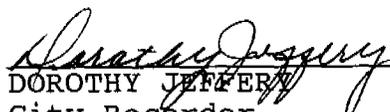
**Section 5. Severability.** In the event that any provision of this resolution less than the entire resolution is held invalid by a court of competent jurisdiction, this resolution shall be deemed severable and such finding of invalidity shall not affect the remaining portions of this resolution.

**Section 6. Repeal of Conflicting Resolutions.** To the extent that any ordinances, resolutions or policies of the City of Delta conflict with the provisions of this resolution, they are hereby amended to be in accordance with the provisions hereof.

PASSED AND APPROVED this 8TH day of November, 1993.

  
DON DAFOE, Mayor

Attest:

  
DOROTHY JEFFERY  
City Recorder

CERTIFICATION

I hereby certify that Delta City has adopted the above Resolution Establishing a Drug/Alcohol Policy for Delta City Employees by formal resolution on this 8TH day of November, 1993.

DELTA CITY

By:   
Title: Mayor

## DRUG/ALCOHOL POLICY FOR DELTA CITY EMPLOYEES

### I. POLICY

It is the policy of Delta City to protect the health and safety of employees and the public we serve by providing a work environment free from the illegal use or abuse of drugs or alcohol.

The possession, use or consumption of alcohol, unauthorized or illegal drugs or the possession or use of drug paraphernalia or the misuse of any legal drugs on City premises or while on City business is prohibited and will constitute grounds for discipline, up to and including termination.

Delta City recognizes that some personal problems and medical conditions, as well as the improper use of drugs and alcohol are often remediable with treatment. In many cases, therapy and/or rehabilitation can return employees to a safe, effective level of function at work. Delta City is committed to helping employees identify and take advantage of opportunities for therapy and rehabilitation.

### II. SCOPE

This policy applies to all Delta City premises and employees while on the job, including lunch and rest breaks during work hours.

### III. PROVISIONS

**Section 1. Definitions.** As used in this ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended.

(1) Alcohol: "Beer" and "liquor" as those terms are defined under § 32A-1-105, Utah Code Annotated (1953 ed.) as amended, or any successor statute.

(2) Chief Executive Officer: The Delta City Mayor or the Mayor's designee.

(3) City: City of Delta, Utah.

(4) Controlled substance: Any of those substances listed under the Utah Controlled Substances Act of the State of Utah.

(5) Drug and alcohol testing: Tests given to detect the presence of drugs or alcohol in the human body, which tests may

include, but is not limited to, urinalysis, breath-analysis, or blood sample testing.

(6) Drug Paraphernalia: Any equipment, product, or material used, or intended for use, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, conceal, inject, ingest, inhale or to otherwise introduce a controlled substance into the human body in violation of Chapter 37, Title 58, Utah Code Annotated (1953 ed.) as amended, and any successor statute. This definition specifically incorporates by reference Section 58-37a-3, Utah Code Annotated (1953 ed.) as amended.

(7) Employee(s): For purposes of this policy, means any individual, actually employed by Delta City, whether classified, unclassified, part time, or temporary. "Employee" shall refer to volunteers to the extent that they will be held at a minimum to the same standards as employees; however, the application of the policy to volunteers shall not be interpreted or applied so as to extend any additional rights or benefits.

(8) Fit for duty: Means that an employee is able to perform his/her job for which said employee was hired in a safe and effective manner unimpaired by illness, medication, alcohol or drugs.

(9) Illegal drugs: Drugs for which the possession, use, sale, or distribution is unlawful pursuant to the laws of the State of Utah or any federal law or regulation. Illegal drugs, for the purpose of this policy, include drugs which are not legally obtainable and drugs which are legally obtainable but have been obtained illegally, including, prescription drugs, unless validly prescribed by the employee's physician and properly used by the employee.

(10) Impaired: Any quantity of alcohol and/or drugs or other substances in the body that adversely affects the employees ability to perform his/her job; and a .04% or greater concentration of alcohol in the blood by volume shall be deemed to be impaired.

(11) Intoxicating substance: Any substance which produces changes on one's physical, mental, or emotional state or behavior; including but not limited to glue, paint thinner, etc.

(12) Positive test: The results of any medical examination evaluating an employee that reveals an employee has a discernable level of alcohol, illegal drugs or improper level of legal drugs or other substances in the employee's body.

(13) Possession: Having controlled substances which are not obtained either directly from a doctor or pharmacist using a

valid prescription, or having controlled substances, the possession or use of which is unlawful pursuant to the laws of the State of Utah or any federal law or regulation, and includes drug paraphernalia.

(14) Premises: All property owned by Delta City which shall include all buildings and facilities owned or operated by Delta City as places of employment and shall also include any vehicles owned by Delta City.

(15) Reasonable suspicion: An articulable belief based on specific facts and reasonable inference drawn from those facts that an employee is under the influence of, or impaired by or is abusing alcohol and/or drugs.

(16) Reportable incident: Any personal injury or property damage involving a City employee that occurs on or off City property during assigned work hours, or any time an employee is using a City vehicle.

(17) Under the influence of alcohol: Means that as a result of the consumption of alcohol an employee's (or applicant's) ability to perform his or her job is impaired to any appreciable degree. For the purposes of this definition, a blood alcohol level of .04% alcohol in the blood by weight shall be considered to be sufficient to establish an employee is under the influence. However, an employee with a blood alcohol level of less than .04% alcohol in the blood by weight may also be considered to be under the influence of alcohol if job performance is impaired to any appreciable degree.

(18) Under the influence of drugs or other intoxicating substances: Means that as a result of the consumption, inhalation or injection or any combination of alcohol, drug or any other intoxicating substance or any combination of substances, an employee's job performance is impaired to any appreciable degree.

**Section 2. Rules and regulations.** Delta City is concerned with those situations where use of alcohol, intoxicating substances, or other drugs is detrimental to the public trust or to the safety of employees or citizens. Delta City is committed to the rehabilitation of employees who abuse drugs and alcohol by referral to Central Utah Mental Health/Alcohol and Drug Center or any other certified agency.

Early recognition and treatment of chemical dependency problems is important for successful rehabilitation to improve job performance and reduce personal, family, and social disruption. Employees who participate in a program for the purpose of treating alcoholism or drug addiction may do so without jeopardizing their employment with Delta City, provided they stop all involvement with alcohol or other drugs. Participation in such programs will not

automatically prevent disciplinary action for incidents that have already occurred. Should a rehabilitation program be necessary, leaves of absence may be used in accordance with current policies.

To implement this policy, the following rules are established as conditions of employment with Delta City.

1. Delta City will not hire any applicant who tests positive on a detection test for illegal drugs or alcohol. Those individuals will be prohibited from employment with Delta City for one year, unless they provide certified documentation of successful completion of a substance abuse rehabilitation program. Applicants who have completed a rehabilitation program will be subject to drug screening prior to being employed.

2. Any Delta City employee who is involved in a reportable incident that results in injury to persons or property shall be subject to an investigation. Employees may be directed to undergo a drug or alcohol detection test to aid in determining fitness for duty if there is a reasonable suspicion that the employee was under the influence of drugs or alcohol at the time of the incident.

An employee who refuses to participate in a required drug or alcohol detection test will be subject to disciplinary action, up to and including termination.

3. Based on the results of the investigation and drug or alcohol detection testing, the employee may be subject to mandatory participation in a rehabilitation program through Central Utah Mental Health/Alcohol and Drug Center or other certified agency and disciplinary action in accordance with departmental or Delta City guidelines and established practices for various infractions.

4. If enrollment in a drug or alcohol rehabilitation program is required, employees will be referred to the Central Utah Mental Health/Alcohol and Drug Center. An employee's fitness to continue in his or her current position while enrolled in such a rehabilitation program will be determined on a case-by-case basis. Employees who have completed a rehabilitation program will be subject to drug screening.

5. Any Delta City employee at any level who reports for work on Delta City premises or work sites will be directed to undergo a drug or alcohol detection test to aid in determining fitness for duty if there is reasonable suspicion that the employee is under the influence of drugs or alcohol. An employee who refuses to participate in such testing will be subject to disciplinary action, up to and including termination of employment.

6. All illegal drugs discovered during an investigation will be given to the appropriate law enforcement agency and may result in criminal prosecution. Drug or alcohol test results will be used for administrative purposes only and will be kept confidential, unless subpoenaed because of legal action.

7. The use, sale, possession, or distribution of a narcotic, an intoxicating substance or any illegal drug or alcohol while at work will subject an employee to disciplinary action, up to and including termination.

8. Supervisors shall take appropriate action to protect Delta City personnel and Delta City property by removing from the work premises or site any individual not in condition to perform assigned work in a normal and safe manner. An employee who appears to be under the influence of drugs or alcohol shall be taken to an authorized facility for drug and alcohol testing. Employees shall not be allowed to drive any vehicle if it appears that they are under the influence of drugs or alcohol.

9. If any employee has reasonable suspicion that a supervisor is under the influence of drugs or alcohol, his observations shall be reported to the supervisor's immediate superior.

**Section 4. Exemption for prescribed medical treatment.**

The use of a legally controlled substance as part of a prescribed medical treatment by a licensed physician will not subject an employee to disciplinary action or denial of employment if that treatment does not adversely affect job performance. Prescribed use must be substantiated by a physician's report or statement. If the use of prescribed drugs adversely affects an employee's job performance or is detrimental to the public trust or safety of other employees or citizens, it is in the best interest of the employee and Delta City for the employee to be placed on a leave of absence. Leaves of absence will be used in accordance with current policies.

**Section 5. Screening process.** In keeping with Delta City's goal to establish and maintain a work environment free from the effects of drugs and intoxicating substances, and to insure the safety of citizens, the work place and the work force, the following procedures are established:

(1) For designated positions, applicants who have received an offer of employment must successfully complete a drug and alcohol detection test in addition to successful completion of any other physical examination requirements. A positive finding of alcohol or illegal drugs will result in denial of employment with Delta City.

(2) Applicants for designated positions who do not submit to screening at the appointed time will be denied employment.

(3) Department heads, with input from the Mayor, shall initiate drug or alcohol screening of employees involved in reportable incidents that result in injury to person or property, if there is reasonable suspicion of substance abuse. If a department head is directly involved in a reportable incident, the Mayor and a designated councilmember shall initiate such drug or alcohol screening.

(4) Drug or alcohol testing of employees may be initiated by department heads, when there is a reasonable suspicion that substance abuse is occurring. The Mayor shall be consulted before ordering a test.

(5) For purposes of drug or alcohol testing under 3 and 4 above, a determination of reasonable suspicion that a person is under the influence of drugs or alcohol includes, but is not limited to, any of the following criteria:

- (a) An employee seems disoriented;
- (b) Confirmed reports from police, citizens or other employees of drug or alcohol use or abnormal, potentially dangerous behavior;
- (c) Medical or physical information such as track marks, absenteeism or tardiness;
- (d) Any articulable facts which lead supervisors or department heads to believe an employee is in possession of drugs or alcohol, or is under the influence of drugs or alcohol;
- (e) The accumulation of facts that indicate an employee, because of alcohol or drug abuse, is unfit for duty.

The areas of observation listed in attached Exhibit A and by the reference made a part hereof, will be used as a guide for such determination.

Drug or alcohol screening of applicants or employees will include a urinalysis and may also include a breath analysis and blood sample testing. The consent form to be used for each such test is attached as Exhibit B and by this reference made a part hereof. Any positive readings following urine testing will be confirmed by an alternate testing method before any management action is taken.

The tests are designed to detect drugs most commonly abused. Listed below are nine drug groups that are identified by the use of the test.

Alcohol	Phencyclidine (PCP)
Amphetamines	Opiates
Barbiturates	Benzodiazepines
Cocaine/Metabolite	Cannabinoids (THC)
Methaqualone	

These drug groups were selected based on known abuse in the community and the ability of each drug to adversely affect physical and mental performance. As new or existing drugs develop into abuse problems, they shall be included in the screening when technically and financially feasible. All positive urine or blood samples will be retained by the laboratory for one year, or longer if an appeal or court action is in process.

**Section 6. Review and appeal.** Upon report of a positive test, the employee or applicant will be notified of the test results. As part of that notification, he or she will be provided an opportunity to explain any positive results. An employee or applicant whose test results were positive may, at the employee's or applicant's own expense, have a retest conducted of the original sample at a laboratory of the employee's choice that has been preapproved by Delta City. An employee or applicant shall request such retest within 30 days of being notified of the original test results. The laboratory used for the retest shall have chain of custody procedures to ensure proper identification, labeling and handling of test samples and proper exchange with and return of the samples to the original medical group or laboratory. Following review or the appeal process, a final determination will be made by the appropriate authority. Employees who have disciplinary action taken against them as a result of a positive drug test may file a grievance or appeal under the applicable grievance or appeal procedures.

**Section 7. Implementation.** Substance abuse screening will be conducted by certified operators of breath alcohol testing devices or by the medical group or groups responsible for administering physical examinations. The integrity of the urine or blood sample being tested or the breath test record card will be ensured by an explicit chain of custody procedure developed by the medical group or laboratory. Any testing, testing-related documents, and test results will be kept confidential and will only be released to the employee or applicant, the personnel department head, or the mayor. Further disclosure of such information is prohibited unless written authorization is obtained from the employee or applicant. Any breach of confidentiality will subject the employee responsible to disciplinary action up to and including termination.



**EXHIBIT A**

AREAS OF OBSERVATION

*Demeanor:* Agitated-aggressive-passive-cooperative  
*Speech:* Slurred-loud-quiet-rambling-incoherent-normal  
*Eyes:* Bloodshot-dilated-closed-moist-normal  
*Breath:* Alcohol odor-marijuana odor-normal  
*Coordination:* Fumbling-jerky-slow reacting-normal  
*Actions:* Talkative-threatening-calm-erratic-normal  
*Skin:* Sweaty-flushed-pale-clammy-normal  
*Walking:* Unsteady-staggering-slow-normal  
*Standing:* Swaying-rigid-feet wide apart-normal  
*Other notable observations:*

**EXHIBIT B**

**DRUG/ALCOHOL SCREENING  
AUTHORIZATION TO OBTAIN MEDICAL RECORDS**

The employee authorizes any physician, medical facility or testing facility (Authorized Party) to release the results of such testing to Delta City, its authorized agents, or representatives who have a need to know.

The Authorized Party shall be responsible for any unauthorized disclosure made by it and the employee acknowledges that the Authorized Party has no responsibility for action taken by or caused by Delta City as a result of receiving such test results.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_.

\_\_\_\_\_  
NAME

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
DATE

**CONSENT FOR SEARCHES AND TESTING**

I, \_\_\_\_\_, a current employee of Delta City, Utah, do hereby recognize that the use or abuse of alcohol, drugs and controlled substances, or any combination thereof, by me or my fellow employees can create an unsafe working environment for all employees.

In consideration of my personal desire for as safe a work environment as possible, I hereby voluntarily give my consent for Delta City to search my person, vehicle, and other property located on Delta City premises or work sites, including Delta City vehicles and private vehicles located on Delta City premises or work sites. I hereby agree to allow Delta City to collect blood, breath, and/or urine specimens from me for testing for alcohol, drug and controlled substances, or any combination thereof, and to conduct other necessary medical, physical, or sobriety tests for this same purpose. Further, I give my consent for the release of the test results to the appropriate Delta City officials for whatever use Delta City deems appropriate.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_\_.

\_\_\_\_\_  
Signature