

# DRUG-FREE WORKPLACE POLICY

Town of Hardwick

Personnel Policies

Subject: DRUG-FREE WORKPLACE POLICY

Effective Date:

Applicable To: All municipal employees.

Issued By: Daniel P. Hill, Town Manager

Approved By: Town of Hardwick  
Legislative Body

## PURPOSE AND POLICY STATEMENT

As an employer, the Town of Hardwick is responsible for maintaining safe, efficient working conditions for its employees by providing a drug-free workplace. Therefore, municipal employees shall not engage in the unlawful manufacture, distribution, possession or use of controlled substances (drugs) on the job or on any municipal work site.

An employee who is under the influence of any drug on the job may pose serious safety and health risks not only to the user but to co-workers and the general public at large.

## DEFINITIONS

**Controlled Substance:** as used in this policy shall mean a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), and as further defined in regulation at 21 CFR 1300.11 - 1300.15.

**Conviction:** means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

**Criminal Drug Statute:** means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use of possession of any controlled substance.

**Illegal Drug:** any drug which is not legally obtainable, or which is legally obtainable but has not been legally obtained. The term includes prescribed drugs not legally obtained and not being used for prescribed purposes.

**Legal Drug:** includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used for the purpose for which they were prescribed or manufactured.

**Under the Influence:** means, for the purpose of this policy, that the employee is noticeably affected by a drug.

**Workplace:** is defined to include non-municipally owned property which is used in the conduct of municipal business, including property used temporarily for business related purposes, such as lodging sites rented for seminars, training, or other municipal activities.

## **APPLICABILITY AND GENERAL POLICY CONDITIONS**

The following conditions shall be applicable to all employees of the Town of Hardwick:

- 1) Employees shall be required, as a condition of their employment, to abide by the terms and conditions of this Drug-Free Workplace Policy.
- 2) An employee shall notify his Supervisor/Manager of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. Failure to do so will result in discipline, up to and including dismissal.
- 3) If a convicted employee works in a federally funded program, the involved federal grant agency shall be notified of the conviction within ten (10) days of the municipality's receiving the notice of the conviction. In the case of the Vermont Community Development Program, notify the Department of Housing and Community Affairs.
- 4) An employee **convicted** under any criminal drug statute for a violation occurring in the workplace, while on or off duty, or on duty away from the workplace, shall be immediately dismissed for the first offense.
- 5) In the absence of compelling mitigating circumstances, an employee **convicted** under any criminal drug statute for a violation **not** occurring in the workplace while **not** on duty shall be subject to immediate dismissal for the first offense if convicted of a felony. If the conviction is not a felony, discipline up to and including dismissal may be imposed, including for the first offense, provided that there is a nexus between the offense and the job of the employee.
- 6) Appropriate disciplinary and/or corrective action is to be taken within thirty (30) days after the employer receives notice of a conviction. This, however, is not to be construed to limit the authority of the employer to take such action thereafter. Any disciplinary action must comply with the collective bargaining agreement, Section 504 of the Rehabilitation Act of 1978, and the Americans with Disabilities Act, if applicable.
- 7) An employee **not convicted** under any criminal drug statute, but who engages in the illegal manufacture, distribution, dispensation, possession or use of controlled substances in any municipal workplace while on or off duty, or on duty away from the workplace, shall be subject to discipline up to and including dismissal for the first occurrence. An employee engaging in such actions while off duty and away from the workplace may be subject to discipline, up to and including dismissal, including for the first offense, provided there is a nexus to the employee's job and just cause for

the discipline.

- 8) Any employee on municipal premises who appears to be under the influence of, or who possesses illegal or non-medically authorized drugs, or who has used such drugs on municipal premises, may be temporarily relieved from duty pending further investigation.
- 9) If the use of legal drugs endangers safety, management may (but is not required to) reassign work on a temporary or permanent basis.
- 10) Employees must observe other work rules established by their employing departments regarding the use, possession or presence of drugs involving their employment.
- 11) Each employee of the municipality will make a good faith effort to maintain a drug-free workplace and uphold and promote this policy.

## **USE OF DRUGS**

**Legal Drugs:** For certain positions, the legal use of a drug can pose a significant risk to the safety of the employee or others. Employees who feel or have been informed that the use of such a drug may present a safety risk, are to report such drug use to their immediate supervisor.

**Illegal Drugs:** The use, sale, purchase, transfer or possession of an illegal drug by an employee while in a municipal facility, while performing municipal business, or while on the job is prohibited. Being under the influence of any illegal drug while conducting municipal business, while on municipal property or in a municipal facility, or while operating any municipal equipment is prohibited. Misuse of prescription drugs is considered to be the illegal use of drugs. This includes both the use of such drugs in a manner inconsistent with the prescribed use and any use of prescription drugs by persons for whom they are not prescribed.

## **RESPONSIBILITIES**

**Employer:** It is the responsibility of each municipal Supervisor/Manger to advise each employee of this policy; to post the policy annually at each worksite; to include a copy of this policy in each new employee's orientation.

**Employee:** It is the responsibility of each employee to be aware of and to abide by this policy.

**Administration:** It is the responsibility of the Town Manager to ensure that managers, supervisors and employees receive training and orientation regarding the implementation of this policy.

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Legislative Body

Date of Adoption by

*M. Ted DeMarchio*  
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*John Senno*  
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*Patricia A. Coultas*  
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Approved Legislative Body

*Becky J. [unclear]*  
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*Charles Volk*  
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