

COLLECTIVE AGREEMENT
ALCOHOL AND DRUG POLICY
ENTERED INTO BY AND BETWEEN

THE CITY OF TSHWANE METROPOLITAN MUNICIPALITY ("CoT")
Herein represented by Mr K Tumagole duly authorised thereto

And

THE INDEPENDENT MUNICIPAL AND ALLIED TRADE UNION ("IMATU")
(Tshwane Metropolitan Region)

Herein represented by Mr J Wrogemann duly authorised thereto

And

THE SOUTH AFRICAN MUNICIPAL WORKERS UNION ("SAMWU")
(Greater Tshwane Branch)

Herein represented by Mr Z. Monkoe duly authorised thereto

WHEREAS these parties constitute the Tshwane Division of the South African Local Government Bargaining Council (SALGBC) and

Whereas the parties have been mandated to regulate working conditions in terms of the Basic Conditions of employment Act (1997) ("BCEA") by their representative mandating structures;

Now therefore the parties to the Tshwane Division of the SALGBC agree as follows:


1. AIM

The aim of this policy is to assist the CoT in enhancing the safety, health and productivity of the employees and to reduce undue losses by providing a uniform approach to the prevention of liquor, drug or related substance intoxication at the workplace and assistance to employees suffering from intoxicating liquor, drug or related substance dependency.

2. BACKGROUND

No uniform policy or procedure dealing with intoxicating liquor, drug or related substance use, abuse or dependency currently exists within the CoT, leading to the arbitrary and piecemeal approach to dealing with this very important matter.

The CoT as provider of municipal services relies on a disciplined and productive workforce to ensure that it fulfils its obligation of being a developmental Local Authority and to reach its goals. The abuse of and dependency on intoxicating liquor, drugs or related substances by its employees will negatively affect sustainable and affordable



service delivery to the community of Tshwane since employees under the influence of these substances will lead to, amongst others, poor work performance, reduced productivity, absenteeism, interpersonal problems, increases in injuries on duty and increased labour turnover.

The implementation of a policy and procedures that ensures a uniform, pro-active, comprehensive and fair approach to dealing with employees found to be intoxicated or in possession of, or trafficking in intoxicating liquor, drugs or related substances, the providing for counselling services and assistance in rehabilitation of dependent/addicted employees as well as for an education and awareness programme will be to the benefit of the CoT, the employees and the community.

3. EMPLOYER OBLIGATION

The employer has the following legal obligations:

- To reasonably ensure that the employee is not likely to cause harm and injury to himself or others at work
- To prevent an employee, who is suspected of being intoxicated from entering or remaining at the workplace
- To ensure that no person at a workplace shall be under the influence of or have in his or her possession or partake of or offer any other person intoxicating liquor or drugs.

4. EMPLOYEE OBLIGATION

Under common law the employee has a legal obligation to perform his work in terms of his contract of employment. This means that the employee must perform his/her duties diligently and efficiently.




Under the Occupational Health and Safety Act the employee has (amongst others) the duty to take reasonable care of the health and safety of himself and of others who may be affected by his acts or omissions as well as reporting any situation which is unhealthy or unsafe to the employer, thus the employee must:

- not present him/herself for duty in an intoxicated state
- not become intoxicated whilst on duty
- not offer intoxicating drugs or liquor to co-workers whilst on duty
- report any employee who appears to be intoxicated to his/her supervisor

5. POLICY STATEMENT

It is the policy of the CoT that:

- any employee of the CoT who is or who appears to be under the influence of intoxicating liquor, drugs or related substances may not enter or remain at the workplace
- no employee of the CoT may be under the influence of intoxicating liquor, drugs or related substances whilst on duty (standby duty included)
- no employee of the CoT may partake of, be in the possession of or traffic in intoxicating liquor or drugs in any of the workplaces of the CoT except where written permission for the possession or consumption of intoxicating liquor has

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been granted as defined by the policy. (see 9 below) This prohibition is not applicable to medicine legally prescribed to an employee.

- transgression of the above by employees of the CoT will result in disciplinary action
- no other person who is or who appears to be under the influence of intoxicating liquor or drugs may enter or remain at the workplace and will be refused entrance to any workplace of the CoT or will be removed from the premises
- no person who test positive for alcohol or illegal drugs during Initial Health Evaluation will be considered for employment by the CoT
- all categories and levels of employees of the CoT are subjected to the stipulations of this policy

6. OBJECTIVES

The objectives of this policy are to:

1. Ensure compliance with the following legislation:
 - 1.1 Occupational Health and Safety Act as amended (Act 85 of 1993)
 - 1.2 Labour Relations Act as amended (Act 66 of 1995)
 - 1.3 Employment Equity Act as amended (Act 55 of 1998)
 - 1.4 National Road Traffic Act as amended (Act 93 of 1996)
2. protect, enhance and promote the health and safety of employees in the workplace and elsewhere
3. prevent the occurrence of injuries on duty caused by the effect of intoxicating liquor, drugs or related substances
4. ensure uniform dealing with employees found to be under the influence of intoxicating liquor, drugs or related substances or who are in the possession of or traffic in intoxicating liquor or drugs in any of the workplaces except when authorised to do so
5. ensure the early identification of employees suffering from behavioural problems leading to the misuse of intoxicating liquor, drugs of related substances or who suffer from addiction to or dependence on intoxicating liquor, drugs or related substances by providing awareness and education programmes
6. ensure counselling of all employees as part of the progressive disciplinary process by qualified staff of the Employee Wellness Sub-section
7. provide for assistance with rehabilitation of addicted/dependent employees and subsequent return to work

7. DEFINITIONS

Abuse

The persistent or sporadic excessive alcohol or drug use by an individual inconsistent with or unrelated to acceptable social/medical practices to such an extent that it has a harmful impact on one or more areas of his/her life.

Alcohol/Drug testing

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The analysis of body fluids (such as blood, urine or saliva), hair or other tissue or exhaled air for the presence of one or more psychoactive substances.

Assistance

Programs and actions aimed at the furtherance of an employee's efforts to be rehabilitated

Dependency

A state of finding it very difficult or even impossible to refrain from taking an intoxicating substance after having taken it regularly for a period of time. The dependence may be physical or psychological or both. A compulsion or chronic need – an addiction

Drug

Any chemical agent that alters the biochemical or physiological processes of tissues or organisms. In common usage, the term, often refers specifically to psychoactive drugs, and often, even more specifically, to illicit drugs, of which there is non-medical use in addition to medical use.

Employee

Any person in the service of the City of Tshwane, whether in a permanent, temporary or contract capacity.

Intoxication:

A state of stupefaction, stimulation or excitement

Intoxicating substance:

Any substance that causes stupefaction, stimulation or excitement

Illicit (illegal) drug

A psychoactive substance, the production, sale or use, of which is prohibited.

Licit (legal) drug

A drug that is legally available by medical prescription in the jurisdiction in question, or, sometimes a drug legally available without medical prescription

Misuse

Increase use of an intoxicating substance to bring about a change in mood.

Rehabilitation:

To restore to good health and useful life, as through therapy and education

Substance:

The term "substances" includes both illegal and legal substances:

Illegal substances: Controlled substances (narcotics, barbiturates, amphetamines, cocaine, cannabis, hallucinogens and synthetic drugs.)

Legal Substances: Alcoholic beverages, tobacco products.

Controlled substances as listed in the Medicine and Related substances Control Act (Act 101 of 65) as amended in 2003 that are prescribed or administered by a licensed physician or health-care professional or are purchased and used for approved scientific research.

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Over-the-counter drugs and –products that may cause intoxication eg glue, thinners

Substance abuse

The term substance abuse includes the misuse and abuse of legal substances such as alcohol, over-the-counter drugs, prescribed drugs, alcohol concoctions, indigenous plants, solvents, inhalants, as well as the use of illicit drugs.

8. DISCIPLINARY ACTION

Disciplinary action will be initiated in all cases where:

- an employee of the CoT was found to be under the influence of intoxicating liquor, drugs or related substances whilst on duty
- an employee of the CoT was found to partake of and/or have in his/her possession intoxicating liquor or drugs whilst on duty
- an employee was found trafficking in intoxicating substances in any of the workplaces of the CoT

except where written permission for the possession or consumption of intoxicating liquor has been granted as defined by the policy. (see 9. below)

All employees who receive a written warning or more serious penalty at disciplinary hearing related to the abovementioned offences must be referred for psycho-social analysis and counselling by a registered counsellor who forms part of the Employee Wellness Sub-section.

Where a person wilfully uses intoxicating liquor, drugs or related substances in the workplace, this will be regarded as an aggravating circumstance at the disciplinary enquiry. Where alcoholism and/or drug addiction is present and the employee is willing to submit to a rehabilitation programme this will be a mitigating factor at the disciplinary hearing of a first time offender.

All disciplinary actions will be in accordance with the applicable disciplinary code and procedure.

9. PERMISSION FOR THE CONSUMPTION OR POSSESSION OF ALCOHOLIC BEVERAGES

Special permission for the consumption and/or possession of alcoholic beverages at the workplace, relating to a specific event may be requested in writing from the applicable departmental head. (Annexure B) This responsibility may not be delegated.

In the case of departmental heads, special permission for the consumption and possession of alcoholic beverages at the workplace, relating to a specific event, may be requested in writing from the Municipal Manager. (Annexure B)

10. SEARCHING FOR ILLEGAL DRUGS AND UNAUTHORISED ALCOHOL

The employer reserves the right to search the belongings/lockers/workstations and its content of an employee if it has reasonable grounds to believe that the employee has

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illegal drugs or unauthorised alcohol in his/her possession. The search may only be conducted by the appropriate unit of Tshwane Metropolitan Police Department.

11. IDENTIFICATION OF AN EMPLOYEE WHO IS UNDER THE INFLUENCE OF INTOXICATING SUBSTANCES.

An employer is entitled to take reasonable measures to ensure that intoxicated employees are identified and prevented from entering or remaining at the workplace. According to the Employment Equity Act (Act 55 of 1998) it is justifiable in the light of medical facts, employment conditions, social policy, the fair distribution of employment benefits or the inherent job requirement to perform medical testing.

Identification is to be done by observations of signs and symptoms of intoxication or by performing alcohol or drug identification tests.

11.1 OBSERVATIONS

If an employee smells of alcohol or cannabis or seems to be unable to perform his/her duties, an observation of signs and symptoms of intoxication must be performed using standardised observation documentation. (AnnexureA)

Other causes of inability to perform work like fatigue or an underlying medical condition must be considered as possible causes. Should the employee lay claim to an underlying medical condition the onus of proof of the presence such condition lies with the employee.

11.2 ALCOHOL OR DRUG IDENTIFICATION TESTS

11.2.1 TESTING

11.2.1.1 COMPULSORY TESTING

Compulsory testing for alcohol and/or intoxicating drugs will be done in the following instances:

- When the observation performed supports the suspicion of alcohol or drug intoxication and test equipment is available
- As part of the medical surveillance programme of high risk job categories e.g. Fire Fighters and Operational Ambulance personnel, Metropolitan Police officers, Bus drivers, drivers of CoT vehicles and employees working with moving machinery.
- When a vehicle driver is involved in a traffic accident whilst driving an official municipal vehicle.
- When an employee is involved, as the instigator, in an assault during working hours
- At Initial Health Evaluation of prospective employees for appointment to a post classified as high risk jobs.

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- At Initial Health Evaluation or employees already in the employment of the CoT when transferred or promoted to a post classified as high risk jobs.

11.2.1.2 RANDOM TESTING

Random testing for alcohol and/or intoxicating drugs can be conducted in the following instances:

- At the entrance/exit or in the workplace especially where driving of an official municipal vehicle or operating machinery forms part of an employee's official duties
- When an employee sustained an injury on duty and intoxication is suspected
- As part of the rehabilitation programme of an alcohol or drug dependent employee.

11.2.2 TESTING METHODS

The most non-invasive and cost effective method of testing for alcohol and drugs will be utilised.

Ethical principles applicable to medical testing will be adhered to e.g. written consent for performing blood and urine tests obtained from the employee before conducting the test.

11.2.3 COST OF TESTS

- Cost of tests conducted as part of Initial Health Evaluations and Medical Surveillance will be carried by the Occupational Health Subsection of the Human Resource Division
- Cost of tests conducted as part of the rehabilitation programme of an alcoholic or drug dependent employee will be carried by the Employee Wellness Subsection of the Human Resources Division.
- Test conducted on a vehicle driver involved in an accident whilst driving a municipal vehicle will be carried by the Accident Bureau of the Metro Police Department.
- Cost of tests conducted in any other circumstance including any follow up tests will be carried by the employee's department.

11.2.4 REFUSAL TO TAKE A TEST

If an employee refuses to take a test the employee will be dealt with in terms of this policy as if a positive test result has been obtained.

12. POSITIVE TEST

It will be accepted that the presence of alcohol or an illegal substance in the blood, urine or any other body tissue or breath of an employee, regardless of the level of the substance, constitutes "being under the influence of " and thus a positive test result.

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13. EMPLOYER RESPONSE TO POSITIVE TEST RESULTS

The employer has a responsibility to prohibit entry to or presence at the workplace of any person that is or appears to be under the influence of intoxicating liquor or drugs.

- Any employee found to be or suspected to be under the influence of intoxicating liquor or drugs by either observations of signs and symptoms of intoxication or testing will not be allowed entrance into the workplace, or will be immediately removed from the workplace.
- If the level of intoxication is such that the employee would be in imminent danger whilst travelling home or it would be illegal to drive he/she must be kept in a safe place until sober or arrangements made to ensure safe travelling to his/her residence.
- The employee will be absent from work without pay for the rest of the day or shift.
- In the case of intoxicating drugs the employee may not be allowed to resume duty until he/she tests negative for the particular substance. The employee will be absent from work on compulsory vacation leave until the employee tests negative for the particular substance or admitted for rehabilitation. In the case where sufficient vacation leave credit is unavailable the employee will be absent from work on unpaid leave.
- Disciplinary action will be initiated in accordance with point 8. "Disciplinary action" of this policy.

14. EDUCATION AND AWARENESS PROGRAMMES

Education and awareness programmes will be conducted that deal with:

- The requirements of the policy and accompanying procedures
- The health, safety and social effects of the use/misuse of intoxicating liquor, drugs or related substances
- The signs and symptoms of substance abuse, dependency and addiction
- The availability of support and rehabilitation for employees who abuse, are dependent on or are addicted to substances

Employees will be encouraged to voluntarily seek assistance for substance abuse and addiction problems.

15. COUNSELLING PROVIDED

- All employees who receive a written warning or more serious penalty at the disciplinary hearing related to the offences listed in section 8 above must be referred to the Employee Wellness Sub-section.
- Referred employees will be subjected to psycho-social assessment and counselling by registered counsellors.
- During assessment it will be determined whether a behavioural or dependency/addiction problem exists.
- All personal details of the employee will be handled in a strictly confidential manner.

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- Employees experiencing behavioural problems will be assisted in dealing with these problems within the scope of services provided by the Employee Wellness sub-section.
- The identification of behavioural problems or substance dependency will not absolve the employee from the normal disciplinary procedure when breach of the disciplinary code occurs.
- Employees found to have a dependency/addiction problem will be encouraged to enter into a rehabilitation programme.

16. REHABILITATION

Alcoholism and drug dependency/addiction can be treated by undergoing rehabilitation.

Rehabilitation is accomplished by a multidisciplinary approach and consists of an in- or out-patient treatment phase of specified duration followed by a follow-up phase.

- Assistance in rehabilitation will be offered to all employees appointed in terms of section 56(a)/57 of the Municipal Systems Act (Act 32 of 2002) and permanently appointed employees who suffer from alcohol or drug dependency/addiction regardless whether the referral is compulsory or voluntary.
- Assistance will consist of:
 - Once off granting of three weeks sick leave to all employees who have been certified by a registered medical practitioner as an alcohol or drug addict for successfully attending an in-patient rehabilitation program at one of the following rehabilitation facilities: Elim Clinic, Stabilis Clinic, Castle Carey Clinic or an SANCA facility.
 - Once off granting of three weeks cumulative sick leave to all employees who have been certified by a registered medical practitioner as an alcohol or drug addict for successfully attending an out-patient rehabilitation programme at one of the abovementioned rehabilitation facilities
 - Granting of sick leave will be subject to the submission of proof of successful attendance of the initial rehabilitation programme by a registered medical practitioner.
 - Follow-up at the Employee Wellness Subsection for a period of two years following rehabilitation or the employment contract. Attendance of follow-up will be during working hours and supervisors must assist employees in keeping appointments. Frequency of follow-up will be in accordance with a set programme.


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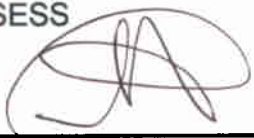
Signed on behalf of **CITY OF TSHWANE METROPOLITAN MUNICIPALITY (CoT)** at Pretoria on this 11 day of SEPTEMBER 2007 in the presence of the undersigned witnesses:


Signature: 

Name in full: KEORAPEISE TUMASOLE

Capacity: Acting EXECUTIVE DIRECTOR - STRATEGIC HR

AS WITNESSES

1. 

2. 

Signed on behalf of **INDEPENDENT MUNICIPAL AND ALLIED TRADE UNION (IMATU)** at Pretoria on this 15 day of NOVEMBER 2007 in the presence of the undersigned witnesses:

Signature: 

Name in full: JAMES KARL WIGGMANN

Capacity: CHAIRPERSON

AS WITNESSES

1. 

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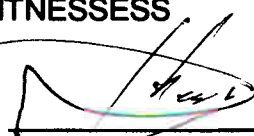
Signed on behalf of **SOUTH AFRICAN MUNICIPAL WORKERS UNION (SAMWU)** at Pretoria on this 14th day of NOVEMBER 2007 in the presence of the undersigned witnesses:

Signature: 

Name in full: Zebulun Mankoe

Capacity: Deputy Chairperson

AS WITNESSES

1. 

2. 

**OBSERVATION REPORT
EMPLOYEE WHO SEEMS UNDER THE INFLUENCE OF ALCOHOL/DRUGS**

Name: _____ Pay number: _____ of
employee to be tested.

Date: _____ Time: _____ Place:

Please mark appropriate answer with X

OBSERVATION	YES	NO
Breath smells of alcohol		
Breath smells of dagga		
Bloodshot eyes		
Unsteady on feet		
Aggressive and refuse co-operation		
Decreased co-ordination (Request employee to touch nose)		
Decreased motor control (Request employee to walk in straight line or to stand one leg with eyes closed)		
Slurred speech		
Indication of vomiting		
In appropriate emotional response		
Is/was employee in possession of alcohol/drugs?		

NAME OF PERSON WHO MADE OBSERVATIONS:

Name: _____ Pay number: _____

Signature: _____ Date: _____

WITNESSES:

1. I, _____ Pay number: _____
confirms abovementioned observations.

Signature: _____ Date: _____

2. I, _____ Pay number: _____
confirms abovementioned observations.

Signature: _____ Date: _____

OBSERVATION REPORT (Continue)
EMPLOYEE WHO SEEMS UNDER THE INFLUENCE OF ALCOHOL/DRUGS

Name: _____ Pay number: _____ of
employee to be tested.

Date: _____ Time: _____ Place: _____

Comments of employee (voluntary):

Signature: _____ Date: _____

APPLICATION FOR PERMISSION TO CONSUME AND /OR POSSES ALCHOLIC BEVERAGES AT THE WORKPLACE IN RELATION TO A SPECIFIC EVENT

Name of chief organiser of the event:

Telephone number :

E-mail address:@thswane.gov.za

Nature of the event for which permission to consume and/or possess alcoholic beverages is sought: (e.g. year end function)

.....

Date of the planned event:

Place where the event will take place:

Time of the planned event:

Number of employee expected to attend the event:

I, the under signed, as chief organizer of the proposed event for which permission to consume and/or possess alcoholic beverages at the workplace is sought declare that the necessary measures will be in place to ensure that no employee who has partaken of alcoholic beverages will drive a municipal vehicle, operate machinery or perform any task that could jeopardize the health and safety of self, co-workers or the public or damage any municipal property.

Signed on the day of 20..

CHIEF ORGANISER

Permission to consume and/or possess alcoholic beverages in relation to the above mentioned event is:

GRANTED / NOT GRANTED.

Reason for withholding permission is:

.....

.....

HEAD OF DEPARTMENT/MUNISIPAL MANAGER

DATE