# Substance Use Policy

## POLICY STATEMENT
The City of Hamilton (“the city”) is committed to providing a safe, healthy and productive workplace where employees, the general public and the community are protected from the adverse effects of inappropriate use of substances. Employees are expected to perform their work duties safely, competently and efficiently, without any limitation arising from substance use or the after-effects of substance use that risks their health or safety or that of any other person. This policy is designed to promote cooperation among all employees to prevent and address substance use and substance use disorder in the workplace.

## PURPOSE
This policy establishes expectations for reasonable behaviour as it relates to the use of substances that could impact an employee’s or contractor’s ability to perform their work duties safely, competently and efficiently. The policy strives to respect the dignity and privacy of individuals; and places a priority on treatment, accommodation and the successful recovery of employees who have a substance use disorder.

## SCOPE
This policy applies to all employees while at a City workplace or while conducting city business (whether at a city workplace or elsewhere).

All city contractors are expected either to adopt this policy and its procedures as their own or to develop and enforce their own substance use policy as it relates to their and their subcontractors’ employees (if any) when engaged in work on behalf of the city or while at any city workplace.

For employees in safety-sensitive positions, in addition to this policy please also see the “Substance Use Policy for Safety Sensitive Positions”.

## DEFINITIONS
### Alcohol
The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol. Beverage alcohol includes but is not limited to beer, wine, distilled spirits and very low alcohol products (e.g. beer with 0.5% alcohol by volume) as are included in this definition (Ontario Ministry of Health).

### Cannabis
1. Any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not
2. Any substance or mixture of substances that contains or has on it any part of such a plant
**3. Any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained**

**Contractor**
Any person(s) providing services or goods to the City under a contract or other agreement not paid through the City’s payroll system.

**Employee**
Any full-time or part-time employee, any temporary or contract employee, any volunteer or any student or intern worker.

**Fit for Work**
An Employee is able to perform the duties of the job with efficiency, competence and in a safe manner as compared to established or generally-accepted performance standards.

**Illicit Drugs**
Any drug or substance that is not legally obtainable by the Employee and whose use, sale, possession, purchase or transfer is restricted or prohibited by Canadian law (which may include but is not limited to street drugs such as marijuana, cocaine, heroin, hallucinogens, stimulants), and includes prescription drugs that have not been lawfully prescribed to the Employee.

**Impaired/Unfit for Duty**
The inability to safely, competently or efficiently perform work duties without limitation resulting from Substance use, after effects of Substance use or otherwise being under the influence of Substances.

**Medication**
A drug obtained legally, either over the counter or as properly prescribed by a registered and regulated health professional.

**Misuse of Medication**
The intentional use of Medication in a way or for a purpose that was not intended or under circumstances that risks the health or safety of the Employee, his/her co-workers and/or the Workplace.

**Substance**
Any substance that is ingested, consumed or otherwise taken, and includes Alcohol, Illicit Drugs and Medication the use of which represents a Misuse of Medication.

**Substance Use Disorder**
A primary, progressive, and chronic disease characterized by the regular, repetitive, habitual, compulsive, obsessive use of a Substance or a combination of substances. Moderate to Severe Substance Use disorder is characterized by a preoccupation with the Substance(s), loss of control, increased tolerance to the Substance(s), harmful consequences in one or more major life areas, denial and delusion.

**Undue Hardship**
The limit of the City’s capacity to accommodate without experiencing an unreasonable amount of difficulty. According to the *Ontario Human Rights*
**Work Environment**

**Supersedes Policy:** Substance Abuse Prevention Policy (2006-04-04)

**Policy No:** HR-39-11

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**Approval:** 2014-09-11

| Workplace | Code, an employer must provide accommodation "up to the point of undue hardship." This means accommodation does not need to be provided if doing so would impose an unreasonable burden on the City, having regard to health, safety, and/or financial considerations. Any land, property, structures, facilities, premises, location, City vehicle and equipment owned, leased, operated or otherwise controlled by the City or any other place at, upon, from or near which an Employee works in the course of his or her duties. |

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<tr>
<th><strong>PRINCIPLES</strong></th>
<th>The City of Hamilton is committed to:</th>
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<tbody>
<tr>
<td>1. Firmly and fairly enforcing the principle that its employees must not be impaired while at a City workplace or while conducting city business (whether at a city workplace or elsewhere).</td>
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<td>2. Communicating to employees about the risks and potential consequences of substance use, substance use disorder and impaired employees in the workplace, including the negative impact on job performance, health and safety and disciplinary action that may result where an employee reports unfit for work due to impairment</td>
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<td>3. Providing education and training to help employees, supervisors and others to identify impaired behaviour and/or to recognize warning signs that may indicate that they or another employee may have a substance use disorder, and to identify to them in either instance what the appropriate response and next steps are, including advising regarding any rights to confidentiality that an employee may have;</td>
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<td>4. Providing employees who have a substance use disorder with appropriate access to programs, services, benefits, or work accommodation to assist them to overcome their dependency in accordance with the Work Accommodation Policy.</td>
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1. Employees must advise their supervisor if they reasonably believe that another employee has a substance use disorder or that another employee is or has been impaired while in the workplace or while conducting city business (whether at a city workplace or elsewhere).

2. Employees must be fit for work and not impaired while at work, while conducting city business (whether at a city workplace or elsewhere). It is the city’s expectation that employees:

   - Must not report for duty while impaired by alcohol, cannabis, medication or illicit drugs;
   - Must not use, possess, distribute, offer or sell drugs or drug paraphernalia in the workplace;
   - Must not engage in the unauthorized consumption of alcohol while on duty or while in the workplace, except where otherwise provided for in this policy;
   - Must not engage in or suffer the continuing effects of misuse of medication while at work, while conducting city business (whether at a city workplace or elsewhere);
   - Must use medications responsibly, ensuring that their ability to perform work safely, competently or efficiently is not impaired;
   - When on standby or in on-call situations, must remain fit for work and not impaired, or decline the call;
   - Will only distribute, offer or sell alcohol if they are required to do so as part of their job duties;
   - Will, when attending a training event or seminar or when otherwise appearing at an event as a representative or ambassador for the city, use alcohol responsibly, ensuring that they are not impaired; and
   - Will, when attending a business or staff function at which alcohol is served, only consume alcohol when the function:
     - does not take place in the Workplace;
     - occurs after standard City business hours of 8:30 a.m. to
3. Where there is reasonable cause to believe that an Employee is Impaired/Unfit for Duty or may be unable to perform their job safely, competently and efficiently he or she will either be removed from duty; accommodated through other duties; or where the Employee has not disclosed any conditions that may be contributing to his or her Impaired/Unfit for Duty state he or she may be subject to discipline, up to and including termination. The nature of the Employee’s employment, previous instances of reporting for work in an Impaired/Unfit for Duty state and whether or not an error or accident has occurred as a result of that state will be considered in the level of discipline that may be imposed.

4. There is a distinction between a single occurrence of an Employee reporting for work Impaired/Unfit for Work and an Employee who suffers from Substance Use Disorder and how the City will respond to those two distinct situations.

When Substance use becomes a compulsive and repetitive habit, it becomes a Substance Use Disorder. An Employee that suffers from a Substance Use Disorder may do so as a result of a number of underlying factors or circumstances. For this reason, an individualized approach to treatment and rehabilitation is required, as is an individualized approach to work accommodation. In order to accomplish this, an Employee suffering from a Substance Use Disorder must receive individualized assessment, treatment, and rehabilitation assistance to help him/her overcome the Substance
5. An Employee who has a Substance Use Disorder has a recognized disability under the *Ontario Human Rights Code*. The City has an obligation to assist the Employee to secure treatment, rehabilitation and to accommodate the Employee through a Return to Work program once the Employee has received appropriate treatment and is deemed fit to return to work.

6. The City’s capacity to accommodate is limited to up to the point of Undue Hardship. This means accommodation does not need to be provided if doing so would bring about unreasonable difficulties based on health, safety, and/or financial considerations to the City. This may occur where an Employee receives treatment and suffers relapses into Substance Use Disorder and the Substance Use Disorder continues to impair the Employee’s ability to fulfill their duties in the workplace.

7. The City has an obligation to provide a safe, healthy and productive workplace for the employee and his or her co-workers, and ensure the general public and the community are protected from adverse effects of inappropriate use of substances. That obligation must be balanced against the employee’s individual right to privacy. Therefore, all actions to address substance use disorder should strike an appropriate balance between our obligation to provide a safe, healthy and productive workplace and respect for the employee’s right to privacy.

**RESPONSIBILITIES**

**Employees**

Employees are responsible for the following:

- To be fit for work and remain fit for work throughout their work day. This means being able to perform assigned duties safely, competently and productively without any limitations due to substance use or the after-effects of substance use. Employees must not consume substances prior to reporting to work, during unpaid breaks or at any other time during their work day. This requirement applies to telecommuting employees, notwithstanding that they are working from home.

- Understand that where there is reasonable cause to believe that the employee is impaired/unfit for work or may be unable to perform his or her job safely, competently and efficiently he or she will either be
removed from duty; accommodated through other duties; or where the employee has not disclosed any conditions that may be contributing to his or her impaired/unfit for work state he or she may be subject to discipline, up to and including termination. The nature of the employee's employment, previous instances of reporting for work in an impaired/unfit for work state and whether or not an error or accident has occurred as a result of that state will be considered in the level of discipline that may be imposed.

- Where there is reasonable cause to believe that an employee is engaging in substance use or has a substance use disorder that might hinder the employee’s ability to perform his or her assigned duties safely, competently or productively or which may compromise the employee’s or others’ health and safety, the employee will be encouraged to self disclose any conditions that might be contributing to his or her inability to do his or her job. The city will accommodate a declared substance use disorder up to the point of undue hardship.

- Assume ownership of his or her substance use disorder, including an expectation that the employee will use counseling and treatment services available to him or her through the city’s employee & family assistance program (EFAP) and/or the community. An employee with a substance use disorder will not be disciplined or terminated as a result of requesting help to overcome a substance use disorder or as a result of his or her participation and involvement in rehabilitation efforts.

- Recognize that problems related to alcohol and drug use or dependency does not excuse inappropriate behaviour or unsafe work performance.

**Employees identified as having a substance use disorder or who are voluntarily seeking or receiving treatment for substance use disorder must:**

- Undergo a substance abuse professional assessment and follow the recommended treatment, rehabilitation and/or follow-up programs (e.g. After care) in order to ensure that their employment and position at the city is maintained for them. An employee who refuses to participate or co-operate in such programs, may be subject to discipline, up to and including termination of his or her employment.

- Participate in work accommodation, if necessary and if available,
Managers and Supervisors

Managers and Supervisors are responsible for the following:

- Communicate with employees about the need to maintain a workplace that is free from substance use. This includes answering questions about this policy and its related procedure.

- Early and regular identification and management of performance issues related to substance use and/or substance use disorder. If an employee’s work performance has deteriorated to an unacceptable level or an employee’s actions jeopardize his or her own health and safety, the health and safety of others, or the reputation of the city, managers and supervisors are responsible for taking appropriate remedial action.

- Remedial action that may be appropriate will include documenting performance issues; providing written feedback to the employee along with the documented details of any substance use or substance use disorder related events; and/or a suggested or formal referral for an assessment to the employee & family assistance program (EFAP). Return to Work Services (Human Resources) should be contacted for assistance with this process.
o Encourage employees to self-disclose any conditions or concerns, including substance use or substance use disorder that might impair their job performance or compromise their or others health and safety. Supervisors and managers need to facilitate a working environment that is conducive to self-disclosure.

o Encourage employees to disclose any conditions or concerns including substance use or substance use disorder regarding a co-worker that might impair the job performance or compromise health and safety.

o Identify and address any situation where an employee appears to be impaired/unfit for work that could impact their ability to perform their job in a safe, competent or efficient manner.

o Prohibit, without exception, the operation of a motor vehicle and/or machinery by an employee who appears to be impaired/unfit for work.

o Abide by the accompanying substance use procedure.

Human resources are responsible for the following:

o Maintain confidentiality and employee privacy as outlined in the Code of Conduct for Employees policy.

o Facilitate and support the safe, healthy and productive return to work of an employee who receives treatment for substance use disorder.

o Support all employees in the application of this policy and its related procedure, including ensuring that the policy and procedure is communicated to employees; providing training in partnership with the employee & family assistance program (EFAP); and providing assistance with respect to policy interpretation.

o Maintain and regularly update this policy as needed.

Procurement is responsible for the following:

o Ensure that contractors are made aware of the City’s expectations with respect to their obligation to either adopt the City’s policy and
General Manager or Designate

General Manager or Designate is responsible for the following:

- Approve a business or staff function at which alcohol will be served and ensuring that:
  - the function occurs after standard City business hours of 8:30 a.m. to 4:30 p.m.;
  - in all cases, the serving of alcohol is at a licensed premise;
  - the function is managed in a way that limits the risk for accidents, including identifying and eliminating potentially harmful situations; and
  - alternate forms of transportation for employees leaving the event, including taxis or public transit, has been made available.

- Approve any exceptions to this policy only in situations that are required to serve a legitimate business purpose.

COMPLIANCE

Non-compliance with this policy may result in the appropriate disciplinary measures, up to and including dismissal from employment.

Disciplinary action may be taken as assessed on a case-by-case basis. The nature of an employee's position, previous instances of reporting for work in an impaired/unfit for work state and whether or not an error or accident has occurred as a result of that impaired/unfit for work state will be considered in the determination of an appropriate disciplinary measure.

RELATED DOCUMENTS

1) Substance Use Procedure
2) Substance Use Policy for Safety Sensitive Positions
3) Substance Use Procedure for Safety Sensitive Positions
4) Work Accommodation Policy
5) Code of Conduct for Employees Policy
6) Ontario Workplace Safety & Insurance Act
7) Controlled Drugs and Substances Act
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<tr>
<th><strong>Corporate Human Resources Policy</strong></th>
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<tr>
<td><strong>HISTORY</strong></td>
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<tr>
<td>This policy was updated by Human Resources 2018-11-29 to reflect changes in legislation.</td>
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<tr>
<td>This Policy replaces the Substance Abuse Prevention Policy dated May 4 1996.</td>
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<td>Senior Management Team approved this policy on 2014-09-11</td>
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