

THEMBISILE-HANI LOCAL MUNICIPALITY



INTOXICATING SUBSTANCES POLICY 2024/25

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INTOXICATING SUBSTANCES ABUSE POLICY

1. PREAMBLE

The Municipality views substance abuse and dependency as treatable health problems and accepts that employees who experience such problems should be provided with assistance, subject to certain conditions outlined in this policy.

2. PURPOSE

The Municipality does not support the intrusion into the private lives of employees, however, it does expect all employees to report to work in a condition sound enough to safely and effectively perform their duties.

3. SCOPE

This policy applies to all employees of the Municipality and contract workers whilst on duty or on the Municipality's premises, save that the standard mode of discipline, treatment and assistance shall not apply to subcontractors.

4. LEGISLATIVE AND POLICY FRAMEWORK

- Constitution of the Republic of South Africa Act 108 of 1996
- Municipal Systems Act 32 of 2000
- Municipal Structures Act 117 of 1998
- Municipal Finance Management Act 56 of 2003
- Labour Relations Act 66 of 1995
- Employment Equity Act 55 of 1998
- Local Government: Regulations on appointment and conditions of employment of senior managers, dated 17 January 2014
- Local Government: Municipal Staff Regulations, 2016 (issued in terms of Section 72, read with Section 120 of the Municipal Systems Act 32 of 2000)
- Local Government: Guidelines for the Implementation of the Municipal Staff Regulations, 2016 (issued in terms of Section 72, read with Section 120 of the Municipal Systems Act 32 of 2000)
- Basic Conditions of Employment Act 75 of 1997
- South African Local Government Bargaining Council: Collective Agreements
- Compensation for Occupational Injuries and Diseases Act 130 of 1993
- Occupational Health and Safety Act 85 of 1993
- Prevention and Treatment of Drug Dependency Act 20 of 1992
- Mental Health Care Act 17 of 2002
- Hazardous Substances Act 15 of 1973
- National Road Traffic Act 93 of 1996
- Criminal Procedure Act 51 of 1977

5. DEFINITIONS

All terminology used in this policy shall bear the same meaning as in the applicable legislation, or as defined and / or explained in the Glossary of the Human Resources Policies Manual.

6. PROBLEM STATEMENT

To ensure all employees of the Municipality and contract workers whilst on duty or on the Municipality's premises, save that the standard mode of discipline, treatment.

7. POLICY PROVISIONS

7.1 Discipline

- 7.1.1** The Municipality places a high premium on its statutory and common law obligations to ensure the safety of employees and the public, and therefore takes a serious view of employees using intoxicating substances or under the influence thereof on the premises or whilst on duty.
- 7.1.2** In determining whether an employee may be under the influence, clinical observations and / or on-site alcohol and / or drug screening tests, at the discretion of the Municipal Manager, may be considered for employees suspected to be using or under the influence of intoxicating substances.
- 7.1.3** An employee who is suspected of being under the influence of an intoxicating substance shall be subjected to a disciplinary enquiry to investigate the matter and to ascertain whether the employee had indeed been under the influence.
- 7.1.4** The Municipality shall consider all relevant facts in determining an appropriate sanction, including whether the employee's conduct caused a safety risk to her/himself, co-workers or the public and / or harm to the Municipality's good name and standing.
- 7.1.5** The Municipality shall be guided by the Code of Conduct and therefore reserves the right to vary the sanction depending on the circumstances of each case.
- 7.1.6** The following constitute particularly serious acts of misconduct which may be grounds for dismissal for a first offence, depending on the facts of each case:

7.1.6.1 Consuming intoxicating substances whilst on duty and / or providing other employees with such substances whilst on duty.

7.1.6.2 Driving a Municipality vehicle or operating safety sensitive equipment whilst under the influence of intoxicating substances.

7.1.7 In the event of employees receiving counselling for substance abuse or dependency, the Municipality also reserves the right, in the case of employees whose substance abuse may reasonably cause a safety risk to themselves, co-workers or the public, to:

7.1.7.1 suspend the employee from such work or put him / her on alternative duties until such time as a counsellor's report and / or appropriate tests confirm that the employee no longer abuses intoxicating substances; and / or

7.1.7.2 require the employee to submit to routine breath and / or blood testing before commencing his / her duties for a period which may be deemed reasonable by the chairperson of the disciplinary enquiry

7.2 Overtime and stand-by / call-out employees

7.2.1 Employees who have been placed on overtime duty shall be subjected to the same provisions as those that apply to employees during normal working hours.

7.2.2 Employees instructed to perform stand-by duties shall be subjected to the same provisions that apply to employees during normal working hours.

7.2.3 In the event an employee is called out to work outside of normal working hours where no prior arrangement has been made with the employee, the employee shall inform the duty supervisor or manager whether he / she used any alcohol since his / her last shift. Should the employee fail the test to verify intoxication, the employee shall be sent home without any sanction.

7.2.4 Should the employee fail to inform the duty supervisor or manager and test positive after having commenced his / her duties, normal disciplinary action shall be taken.

7.3 Management of suspected intoxication

- 7.3.1** If the duty supervisor or manager suspects that an employee is or appears to be under the influence of an intoxicating substance, a fellow employee or shop steward shall be called to act as a witness. If the fellow employee or shop steward is not available, any other manager or fellow employee or shop steward may be called.
- 7.3.2** The responsible supervisor or manager shall, in the presence of the witness, test and document state of intoxication following the prescribed method.
- 7.3.3** Should the employee refuse to submit to the prescribed test, he/she shall be informed that he / she would be giving up an opportunity to contest the allegation of being under the influence. The employee's refusal shall then be recorded as prescribed.
- 7.3.4** Should test results be positive, or where testing is refused and/or where behavioural / clinical suggest intoxication, the employee shall, in the interests of workplace safety, be deemed to be under the influence and instructed to leave the work premises.
- 7.3.5** Regardless of testing, should the supervisor or manager be convinced that the employee's presence constitutes safety risk or may tarnish the Municipality's name and standing based on clinical or behavioural signs, the supervisor or manager shall instruct the employee to leave the workplace.
- 7.3.6** The supervisor or manager shall take all reasonable steps to ensure that the employee has a safe means of returning home by contacting a relative or friend to accompany him / her. Whilst waiting for assistance the employee shall be accompanied to a safe area where he / she is least likely to cause harm to him / herself or others. The employee leaving the premises without accepting assistance shall do so at his / her own risk.
- 7.3.7** Employees who are refused entry or who are instructed to return home as provided for above shall not be paid for that portion of the day which they had missed on condition that, should the employee be found not guilty during a subsequent enquiry the employee shall be paid for the particular portion.

7.4 Referral Modes

- 7.4.1** The Municipality wishes to encourage employees who may experience alcohol or other drug related problems, to confidentially discuss such problems with their Managers, the HRM Unit with the view of acquiring professional assistance.

- 7.4.2** Such a request shall be treated with confidentiality, and shall not be documented on the employee's personal file and shall not unreasonably affect the employee's job security, service benefits or career opportunities.
- 7.4.3** The acceptance of the offer of assistance, whether voluntary or mandatory, shall not exempt the employee from standard disciplinary measures whilst under treatment.
- 7.4.4** Supervisor and managers have the responsibility to identify unacceptable levels of performance, attendance or interpersonal relationships, to take timely corrective steps (or disciplinary action, if appropriate) and to encourage the employee to consult with them or the HRM Unit with the view of acquiring confidential assistance.
- 7.4.5** Employees who commit alcohol or drug related offences and/or whose performance, attendance or interpersonal relationships are detrimentally affected as a result of substance abuse, may be given the option of accepting referral for assessment, or counselling or welfare support depending on circumstances of the case. This option may be offered in conjunction with standard sanctions in the disciplinary procedure.
- 7.4.6** In the event of the employee refusing the offer of treatment / counselling following a substance abuse related offence, or absconding from the treatment centre, being non-compliant with the treatment / counselling, such lack of co-operation shall be viewed as an aggravating factor in assessing an appropriate or further disciplinary sanction in the event of future transgressions of a similar or related nature.

7.5 Assessment, Counselling and Treatment

- 7.5.1** The Municipality shall utilise the policy and methods within the Employee Wellness Programme to assist employees who request assistance relating to assessment, counselling and / or treatment of abuse related to intoxicating substances.
- 7.5.2** Where an employee, having received treatment, suffers a relapse, the Municipality shall consider the case on its merits. At its discretion, the Municipality shall seek medical advice in an attempt to ascertain and provide more treatment / rehabilitation time likely to be required for a full recovery.
- 7.5.3** If after the employee has received treatment and recovery seems unlikely, the Municipality may dismiss the employee, provided:
- 7.5.3.1** a clear warning is given to the employee beforehand

7.5.3.2 a full medical investigation is carried out, or employee gives access to his/her medical record to the Municipality. If the employee declines to allow the Municipality access to their medical records a decision about future employment shall be made with the information that is available to Municipality.

7.6 Social functions and promotions

7.6.1 In the event of the Municipality functions and promotions where liquor may be served, all employees are expected to at all times behave in a becoming and respectful manner.

7.6.2 Reasonable precautions shall be taken to prevent immoderation through measures such as a coupon system of dispensing liquor, serving food / light snacks with drinks and the provision of soft drinks or low-alcohol beverages.

7.6.3 Employees should also be warned of rules of the road about drunken driving.

7.6.4 Employees whose behaviour during such events become offensive, cause an embarrassment to the Municipality, fellow employees or guests, or whose conduct jeopardise the safety of such parties or the public as a result of excessive alcohol intake, shall be charged with allegedly having been under the influence of alcohol.

7.6.5 No alcohol shall be served by the Municipality during training courses or seminars except during evening functions.

7.6.6 No employee may consume alcohol during normal working hours, including lunchtime.

7.11 Roles and responsibilities

7.7.1 The Municipal Manager or his / her delegated assignee(s) accept overall responsibility for the implementation and monitoring of the policy.

7.7.2 The financial implications related to implementing this policy shall be qualified and quantified by Human Resource Management in consultation with the Chief Financial Officer.

8. POLICY MONITORING AND EVALUATION

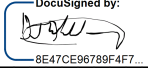
8.1 This policy shall be implemented and effective once recommended by the Local Labour Forum and approved by Council.

8.2 Non-compliance to the stipulations contained in this policy shall be regarded as misconduct, which shall be dealt with in terms of the Code of Conduct.

8.3 Head of Corporate Services shall carry out the monitoring and evaluation of the policy's implementation.

9. POLICY APPROVAL

Approved by Municipal Council on the 23rd of May 2024 and signed by the Municipal Manager

	6/5/2024
DJD Mahlangu	Date