

ORDINANCE NO. 15-15

AN ORDINANCE PROMOTING A DRUG-FREE WORKPLACE IN THE CITY GOVERNMENT OF SAN CARLOS AND PROVIDING SANCTIONS THEREOF

Introduced by Hons. BAGUIORO, MASCUÑANA, CABILI, CARMONA and UY

EXPLANATORY NOTES

WHEREAS, the CIVIL SERVICE COMMISSION (CSC) issued Resolution No. 101359 which prescribes the conduct of mandatory drug test as a requirement for pre-employment to ensure that only those qualified shall be screened and recruited in the government service;

WHEREAS, the same resolution mandates the heads of agencies to ensure that the drug-free workplace program on the prevention and control of dangerous drugs, including drug-testing, shall be disseminated to all officials and employees;

WHEREAS, Section 36 (d) of RA 9165 otherwise known as the “Comprehensive Dangerous Drugs Act of 2002 provides that officers and employees of public and private offices, whether domestic or overseas, shall be subjected to undergo a random drug test as contained in the company’s work rules and regulations, which shall be borne by the employer, for purposes of reducing the risk in the workplace;

WHEREAS, public office is a public trust; thus, public officers must at all times be accountable to the people, serve them with utmost degree of responsibility, integrity, loyalty and efficiency;

WHEREAS, it is in the best interest of the government to create a drug-free workplace since drug abuse problem, if there is any, can have adverse and far reaching effects on the government, like reduced productivity, poor decision making, client relationship mishap and physically dangerous situations;

WHEREAS, under Sec. 458, par. (a), (1) and (V) of RA 7160, the Sangguniang Panlungsod has the power and authority to enact ordinance to prevent, suppress and impose appropriate penalties on drug addiction, maintenance of drug dens, drug pushing, and such other activities inimical to the welfare and moral of the inhabitants of the city;

NOW, THEREFORE,

BE IT ORDAINED by the Sangguniang Panlungsod of the City of San Carlos, in regular session assembled that:

SECTION 1. SHORT TITLE – This ordinance shall be known as “**A DRUG-FREE WORKPLACE ORDINANCE IN THE CITY GOVERNMENT OF SAN CARLOS OF 2015.**”

SECTION 2. GENERAL GUIDELINES IN THE CONDUCT OF RANDOM DRUG TESTING AS GOVERNMENT POLICY AND AS PART OF EMPLOYEES’ RULES AND REGULATIONS - This ordinance shall be applicable to the random drug testing of all officials and employees of the City government of San Carlos, Negros

Occidental. The following guidelines outline the purposes of the random drug testing program:

- a. The random drug testing shall be implemented as a collaborative undertaking of the government, its officials and employees, local and national.
- b. Random drug testing shall be implemented primarily for a drug-free workplace.
- c. The drug testing program shall guarantee and respect the personal privacy and dignity of the officials and employees.
- d. The random drug testing may be set as a condition for the continuous financial assistance of the city government to national government agencies; same condition may be set for the approval of business permit/franchise to local merchants/pedicabs/motorcab operators.

SECTION 3. DEFINITION OF TERMS. For the purpose of this ordinance, the following terms are defined:

1. **Employees**- shall include all local and national officials and regular, casual, job order personnel, contractual and temporary employees in the City Government of San Carlos.
2. **Random Drug Test**- subjection of personnel for drug testing as selected following no specific pattern and without prior notice/information;
3. **“For Cause” or “Probable Cause” Drug Test** – Drug testing required when there is a “probable cause” or “reasonable ground” to believe that a person is using or is under the influence of dangerous drugs.
4. **Screening Test** - -shall mean a rapid test performed to establish potential/presumptive positive result; it refers to the immunoassay test to eliminate a negative specimen i.e. one without the presence of dangerous drugs, from further consideration and to identify the presumptively positive specimen that requires confirmatory test.
5. **Confirmatory Test** - shall mean an analytical test using a device, tool or equipment with a different chemical or physical principle that is more specific which will validate and confirm the result of the screening test; it refers to the second or further analytical procedure to more accurately determine the presence of dangerous drugs in a specimen.
6. **Refusal** - physically evading, escaping, refusing or making self unavailable.

SECTION 4. CREATION OF A DRUG-FREE WORKPLACE COMMITTEE.

- a. A Drug-free Workplace Committee shall be created by the City Mayor composed of himself as Chairperson and representatives from the City Health Office, Office of the Human Resource Management, City Legal Office, Office of the City Administrator and the San Carlos City Anti Drug Abuse Council (SCCADAC).
- b. The Drug-free Workplace Committee shall formulate the Implementing Rules and Regulations for the implementation of this Ordinance.

SECTION 5. PROCEDURES IN THE CONDUCT OF RANDOM DRUG TESTING – the Procedures in the conduct of the random drug testing are as follows:

1. Drug testing shall be done by any government forensic laboratory or any of the local Drug testing laboratories accredited and monitored by the DOH to safeguard the quality test results.
2. The drug testing shall employ, among others, two (2) testing methods:
 - a. the screening test which will determine the positive result as well as the type of drug used; and
 - b. the confirmatory test which will confirm a positive screening test.
3. Random testing shall include, either all or a certain number of employees; the means of selection shall remain confidential.
4. All information related to drug testing or the identification of persons as users of drugs shall be treated by the City as confidential unless otherwise required by law, overriding public health and safety concerns, or authorized in writing by the person in question.

SECTION 6. TESTING FOR “PROBABLE CAUSE” OR “REASONABLE GROUND”- Random drug test shall be conducted when certain employee/s display/s misconduct, e.g.:

- a. **Attendance** –frequent unauthorized absences, repeated tardiness, truancy from the job.
- b. **Personal Appearance** – slurred speech, bloodshot eyes, drastic change in appearance, etc.
- c. **Mental Factor** – hot-headedness, irritability, increased difficulty in handling assignments, etc.
- d. **General Performance** – missed deadlines, low productivity, increased wastage, public complaints, frequent accidents, carelessness, etc.
- e. **Peer Relation** – isolation, frequent quarrels with officemates, heavy borrowing, frequent mood swings, etc.

SECTION 7. FUNDING. Funding for the random drug testing shall be taken from the SSCADAC funds allocated for drug testing.

SECTION 8. SANCTIONS

1. Any official, or permanent or regular employee found positive of dangerous drugs shall be subjected to disciplinary/administrative and criminal proceedings; immediate dismissal after release of confirmatory result for job order personnel, contractual and temporary employees.
2. The refusal to undergo drug testing shall be ground for disciplinary and administrative sanctions.

SECTION 9. SEPARABILITY CLAUSE. If any part of this Ordinance is declared not valid, unconstitutional or unlawful, such declaration shall not affect or impair the remaining provisions, sections or parts thereof, which shall remain or continue to be in full force and effect.

SECTION 10. REPEALING CLAUSE. All previous ordinances and provisions inconsistent with this Ordinance shall be deemed repealed or modified accordingly.

SECTION 11. EFFECTIVITY. This Ordinance shall take effect, after its publication in a newspaper of general circulation and after copies of this Ordinance shall have been posted for ten (10) days in the bulletin board, at the entrance of the City Hall Building, and in at least two (2) conspicuous places in the City of San Carlos, not later than five (5) days after approval hereof.

ENACTED: June 11, 2015, by the affirmative votes of Hons. DEBULGADO, CARMONA, CABILI, APUHIN, MASCUÑANA, BAGUIORO, MANSUETO, UY and GEOPANO. Negative: None.