

# **SUBSTANCE ABUSE POLICY**



*"A City for All Ages"*

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*"A City for All Ages"*

## **CITY OF PORT ST. LUCIE**

### **SUBSTANCE ABUSE POLICY**

#### **PURPOSE**

The City of Port St. Lucie has a strong and legitimate interest in ensuring that employees are fit to perform their duties. The city's need to protect the public safety and welfare, as well as the welfare and safety of its employees, will be aided by achieving and maintaining a drug-free work place. The city recognizes that employee alcohol and drug abuse can seriously impact the effective delivery of city services, the image of city employees, and the health, safety and welfare of employees and the public. The pervasive presence of alcohol and substance abuse in our society, the resultant impact upon the work place, and the city's obligation to its employees require the establishment of a Drug Free Work Place policy. The purpose of this policy is to provide healthy, safe and secure work environment for all employees.

#### **SCOPE**

This policy shall apply to all city employees.

## **GENERAL POLICY**

1. All employees are prohibited from possessing, consuming, or reporting to work or working with the presence of drugs or alcohol in his/her body. The term "alcohol" includes distilled spirits, wine, malt beverages, and intoxicating liquors.
2. Use, possession, sale, solicitation or transfer of drugs or other illegal substances, or an attempt to perform the foregoing actions at any time, on or off duty, is strictly prohibited. The term "drugs" shall include, but is not limited to, alcohol, amphetamines, cannabinoids, cocaine, phencyclidine (PCP), any hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, any synthetic narcotics, any designer drugs, or a metabolite of any of the substances listed herein. In addition, the term "drugs" used herein shall include the use of any illegal substance, as well as the misuse or abuse of prescribed drugs. Except as provided in Section 7 of this policy, violation of this policy shall result in immediate discharge. An employee shall be suspended without pay or benefits if the employee is arrested for a drug-related violation. If an employee, as a result of an arrest for a drug-related violation, enters a plea of guilty or nolo contendere, is found guilty or participates in a Pre-Trial Intervention (PTI) program, whether or not the employee is adjudicated guilty or such adjudication is withheld, he/she will be terminated. Only if the employee is found innocent of all charges by the court, by final disposition, or all charges are dismissed, except when the dismissal is part of a plea arrangement or PTI Program, will he/she have the right of reinstatement to the same or similar position, without loss of pay or benefits. Back-pay awards shall be limited to an amount equal to 180-days of remuneration, based upon the employee's wages at the time he/she was suspended.

3. The City may require all employees to be tested for alcohol or drug use. As explained more fully below, such testing may be done during fitness-for-duty physicals, or following any on-duty accident, or upon reasonable suspicion. "Drug test" or "test" means any chemical, biological or physical instrument analysis administered for the purpose of determining the presence or absence of alcohol, a drug or its metabolites, or other illegal substances. At the discretion of the city, such test may be performed on any one or combination of the following: urine, blood, hair, saliva, breath, or other appropriate body specimen.  
Collection of specimen will be done under medical supervision, at the City's direction. If any injured employee refuses to submit to a test for drugs and/or alcohol, the employee forfeits eligibility for all medical and indemnity benefits.
4. Once it has been determined that a reason for drug testing exists under this policy, the decision to conduct testing shall be made by the Department Head or higher authority, and the Personnel Director, without any other prior notice to the employee. Scheduling for any testing or examination will be at the discretion of the city. Should the employee refuse to cooperate with the testing, including refusal to submit to the test at the time ordered, such refusal shall be considered just cause for the employee's immediate discharge from employment. All remuneration and benefits shall cease as of the date of the employee's termination.
5. For purposes of this policy, "reasonable suspicion" drug testing means testing based on a belief that an employee is using or has used alcohol or drugs in violation of this policy, drawn from specific objectives and articulable facts and reasonable inferences drawn from those facts. Among other things, such facts and inferences may be based upon, but not limited to:
  - A. Observable phenomena while at work, such as direct observation of alcohol or drug use, or of the physical symptoms or manifestations of being under the influence of alcohol or a drug.

- B. Abnormal conduct or erratic behavior while at work, or a significant deterioration in work performance.
- C. A report of alcohol or drug use, provided by a reliable and credible source.
- D. Evidence that an individual has tampered with an alcohol or drug test during his employment with the current employer.
- E. Information that an employee has caused, contributed to, or been involved in an accident while at work.
- F. Evidence that an employee has used, possessed, sold, solicited or transferred alcohol or drugs, engage in other illegal activities related to illegal substances, or attempted to use, possess, sell, solicit, or transfer drugs, while working or while on the employer's premises, or while operating the employer's vehicle, machinery or equipment.
- G. A prior positive drug test or having voluntarily received rehabilitation for drug use during the past two years.
- H. Presence of physical symptoms commonly associated with substance abuse, such as:
  - \* impairment of motor functions
  - \* slurred speech
  - \* incoherent or irrational mental state
  - \* drowsiness
  - \* smell of alcohol or marijuana
  - \* extreme weight loss
  - \* red eyes
  - \* running nose or sniffing
  - \* frequent or extreme mood changes
  - \* lack of physical coordination

I. Deteriorating work performance and/or attendance problems not solely attributable to other factors, such as:

- \* frequent absences or lateness
- \* unexplained absence from assigned work area
- \* frequent or extended visits to the restroom
- \* deterioration in dress and/or grooming

J. Other marked, unexplained changes in personal behavior.

6. In testing for the presence of alcohol, the city shall utilize a generally accepted testing procedure. In testing for the presence of other drugs, the city will utilize an initial screening procedure such as EMIT. If the initial screening test is positive, a confirmatory test such as the GAS Chromatography/ Mass spectrometry (GC/MS) test will be performed. The city, in its sole discretion, may request a confirmatory test be performed if the initial screening test is negative. Should a drug test substantiate the use or influence of drugs, the employee shall be immediately suspended without pay for 45 days to seek rehabilitation. Upon the expiration of the suspension and before being allowed to work, the employee will be given a drug test. If he/she is unable to pass a drug test, the employee will be discharged. If the employee passes the test, as a condition of returning to work, the employee must consent to quarterly drug testing, upon the demand of the city, at any time without notice during the following two year period. An employee found to be unable to pass a drug test at any time in the future (i.e., a second offense), shall be discharged immediately. A temporary, contractual, seasonal or probationary employee shall be discharged for the first positive confirmed test result. Sworn law enforcement personnel may also be discharged for the first positive confirmed test result, if the

test results confirm illegal drug usage under Section 893.03 Fla. Stat. A sworn law enforcement employee who is participating in an Employee Assistance or drug rehabilitation program may not be allowed to continue to work in any special-risk or safety-sensitive position of the city, but may be assigned to a position other than safety-sensitive position or placed on leave while the employee is participating in the program. Sworn law enforcement personnel shall be permitted to use any accumulated vacation leave before leave may be ordered without pay.

7. An employee must notify his/her supervisor within no more than five working days after he/she has been arrested for a violation of a criminal drug statute. (A criminal drug statute is any law, federal, state or local, which makes unlawful the manufacture, distribution, dispensation, use or possession of any controlled substance or illegal drug.)



## **REFERRAL FOR TREATMENT**

1. Employees who are concerned about their alcohol and/or drug abuse are strongly encouraged to voluntarily seek assistance, as the Employee Assistance Program is available as a resource for all employees.
2. An employee who has not undergone rehabilitation for a drug abuse problem previously may voluntarily request a leave of absence of up to 45 days without pay to seek rehabilitation. If the employee has accrued sick leave, he/she may be permitted to take a paid leave during this period, to the extent of his/her accrued sick leave. Such a request will not jeopardize the employee's continued employment, provided he/she strictly adheres to the terms of his/her treatment and rehabilitation program. Voluntary requests for assistance will not however, prevent disciplinary actions for violation of other rules or policies. Before being allowed to return to work following voluntary rehabilitation, the employee will be given a drug test. If he/she is unable to pass the test, as a condition of returning to work, the employee must consent to quarterly drug testing, upon the demand of the city, at any time without notice, during the following two year period. Having had the benefit of rehabilitation, an employee found to be unable to pass a drug test at any time in the future (i.e., a second offense) shall be discharged immediately.

## **CONFIDENTIALITY**

1. The results of drug screening or alcohol tests shall not be included in an applicant's or an employee's file, but shall be retained by the Human Resources/Risk Management Department in a separate medical file, exempt from public inspection.
2. Tests results and ancillary information may be disclosed to management personnel only on a need-to-know basis or to any person upon the written consent of the employee or applicant.
3. No physician/patient relationship is created between an employee and the city or any person performing or evaluating a test, solely by the administration of a testing program. The city or its designee shall have access to employee testing information. If disciplinary actions are brought under or are relates to this policy, the city or its designee, as well as the laboratory which conducted the test, shall have access to the employee's testing information when consulting with legal counsel. The city or its designee and the laboratory which conducted the test shall also have access to the employee drug testing information where the information is relevant to its position in a civil or administrative matter, and may use the information in such proceedings.

## **OVER THE COUNTER OR PRESCRIPTION DRUGS**

An employee who has been prescribed or is issued a drug for any medical or other condition which might in any way impair his/her ability to perform his/her job must immediately notify his/her supervisor. The Personnel Director, in consultation with appropriate medical authority, shall determine whether the individual can work while taking medication. If it is determined that the individual is unable to perform his/her job without impairment caused by the medication, the employee will be placed on sick leave, annual leave, or medical leave without pay until the condition for which such medication is being taken is no longer present or use of medication causing impairment has been discontinued.

## **PRE-EMPLOYMENT TESTING FOR INITIAL EMPLOYMENT**

1. Applicants being considered for initial employment by the City of Port St. Lucie must successfully pass a drug screening (the method will be determined by the city.)
2. If the applicant fails to pass the pre-employment drug screening, he/she will be disqualified from consideration for employment until certain re-application procedures are successfully met.
3. An applicant's failure to submit to the required pre-employment drug test shall be considered as a request for withdrawal from consideration for the position for which he/she applied.

## **RE-APPLICATION PROCEDURES**

An applicant who has been determined ineligible for hire during the pre-employment process due to a positive drug screening may reapply for employment after 12 months from the date of the initial positive test results, provided he/she passes the pre-employment drug test.

## **APPEAL**

1. Within five working days after receiving notice of a positive confirmed test result, the employee or job applicant may submit information to the Medical Review Officer explaining or contesting the test results. The city shall obtain a report regarding the job applicant or employee challenge to the drug/alcohol test from the Medical Review Officer and determine whether or not a violation of the city's Substance Abuse Policy continues to exist.
2. If an employee or job applicant undertakes an administrative or legal challenge to the test results, the employee or job applicant shall notify the Medical Review Officer and the sample shall be retained by the laboratory until the case or administrative appeal is settled. During the 180-day period after written notification of a positive test result, the employee or job applicant who has provided the specimen shall be permitted by the employer to have a portion of the specimen retested, at the employee's or job applicant's expense, at another laboratory, licensed and approved by the Agency for Health Care Administration or the United States Food and Drug Administration, chosen by the employee or job applicant. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory which performed the test for the employer shall be retested, and for the integrity of the chain of custody during such transfer.

## **MANAGEMENT REQUIREMENTS**

1. Management personnel (City Manager, Assistant City Manager, Department Heads and Supervisors) shall be responsible for the implementation and consistent enforcement of this policy, together with the Human Resources/Risk Management Department.
2. The authority to require that employees submit to alcohol and drug screening shall be approved by the Department Head or higher authority and the Personnel Director. The approving authority shall review the facts to ensure the appropriateness of requiring the employee to submit to the alcohol and/or drug screening.
3. Management must document in writing the facts constituting reasonable suspicion or violation of this policy.
4. Management must inform any employee being required to submit to the requirements of this policy and the consequences of non-compliance.
5. Appropriate management personnel shall accompany the subject employee to the testing facility and shall remain at the facility with the employee until the testing is completed.
6. The subject employee shall not be permitted to operate a motor vehicle, nor continue to work in a safety-sensitive position, pending the outcome of the test. Management shall arrange for the tested employee to be escorted home.
7. Under no circumstances shall a supervisor be required to transport an employee exhibiting violent or threatening behavior. In such cases, the supervisor shall immediately contact the appropriate law enforcement agency.
8. Once the alcohol and drug screening collection process has been properly completed, the appointing authority and the Personnel Director shall decide if the subject employee is to be returned to a limited duty capacity or relieved of duty pending the results of the alcohol and/or drug screening.

\* If relieved of duty, the employee may be suspended without pay.

\* If the employee is given a job reassignment, he/she shall not be permitted to operate a motor vehicle or any equipment that could present a danger to health, safety or welfare of the public, co-workers or the employee.

\* Consideration in arriving at a final administrative course of action shall include, but not be limited to, the public safety and sensitivity issues of the employee's city position.

9. The Department Head or his/her designee shall take the appropriate administrative and/or disciplinary actions in accordance with this policy and the city's Personnel Rules and Regulations.

### **OTHER DISCIPLINE**

This policy does not prevent the city from disciplining an employee for any violation of the city's Personnel Rules and Regulations, operating procedures, or collective bargaining agreement that may occur, regardless of whether it is in connection with alcohol and/or drug use or abuse. Notwithstanding any other provisions of this policy, if the city finds that the employee's use of any drug has detrimentally affected its interests, the employee may be discharged immediately.

### **COMMUNICATION OF THIS POLICY**

1. All employees of the city will receive a copy of this policy.
2. All Department Heads, with the assistance of the Human Resources/Risk Management Department, will be responsible for communicating this policy to newly-hired employees as part of the orientation process.
3. Notice of drug testing will be included on vacancy announcements for those positions for which drug testing is required. A notice of the city's drug testing policy will also be posted in an appropriate and conspicuous location on the employer's premises, and copies of the policy will be made available for inspection by the general public during regular business hours in the employer's Human Resources/Risk Management Department or other suitable locations.

## **DRUG-FREE WORK PLACE PROGRAM REQUIREMENTS**

### **FLORIDA STATUTES 440.102**

The 1993 revisions to the Worker's Compensation Act provide that no compensation shall be payable to an employee if his injury was occasioned primarily by the intoxication of the employee, or by the influence of any drugs, barbiturates, or other stimulants not prescribed by a physician, which affected the employee to such an extent that the employee's normal faculties were impaired. If the employee has a positive confirmation for a drug as defined in the Act, the presumption is that the injury was occasioned primarily by the intoxication of, or by the influence of the drug upon, the employee.

If the employer has reason to suspect that an employee's injury was occasioned by the intoxication of the employee or by the use of any drug which affected the employee's normal faculties, the employer may require the employee to submit to a test for the presence of any or all drugs or alcohol in his/her system. If the injured worker refuses to submit to a test for non-prescription controlled substances or alcohol, it shall be presumed, in the absence of clear and convincing evidence to the contrary, that the injury was occasioned primarily by the influence of a non-prescription controlled substance or alcohol.

If an injured employee refuses to submit to a test for drugs or alcohol, he forfeits his eligibility for all medical and indemnity benefits upon exhaustion of the procedures prescribed in Fla. Stat. 440.102 (5) (p).

Prior to providing a specimen for testing, an employee or job applicant will have an opportunity to confidentially notify the testing facility of the use of prescription or non-prescription medications. A list of the most common medications by brand name or

common name, as applicable, as well as by chemical name, which may alter or affect a drug test, is attached.

A list of the names, addresses, and telephone numbers of employee assistance programs, and local alcohol and drug rehabilitation programs in the geographical area is available upon request in the Human Resources/Risk Management Department.

Employees have the right to appeal any adverse action taken by the city in accordance with the collective bargaining agreement (where applicable), or the city's Personnel Rules and Regulations, but not both. Job applicants and employees may also appeal to the Public Employee Relations Commission or applicable court.

Employees and job applicants have the right to consult the testing laboratory for technical information regarding prescription and non-prescription medications.



The Department of Health and Rehabilitative Services' list of common medications is:

**DRUGS**

**TRADE OR COMMON NAMES**

**NARCOTICS:**

<b>Opium</b>	Dover's Powder, Paregoric, Parepectolin
<b>Morphine</b>	Morphine, Pectoral Syrup
<b>Codeine</b>	Tylenol with Codeine, Empirin Compound with Codeine, Robitussin A-C
<b>Heroin</b>	Diacetylmorphine, Horse, Smack Dilaudid
<b>Meperidine (Pethidine)</b>	Demerol, Mepergan
<b>Methadone</b>	Dolophine, Methadone, Methadose
<b>Other Narcotics</b>	Darvon, Fentanyl, LAAM, Leritine, Lomotil, Numorphan, Percodan, Talwin, Tussionex

**DEPRESSANTS:**

<b>Barbiturates</b>	Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate
<b>Benzodiazepines</b>	Ativan, Azene, Clonopin, Dalmane, Diazepam, Halcion, Librium, Paxipam, Restoril, Serax, Transene, Valium, Verstran, Xanax
<b>Chloral Hydrate</b>	Noctec, Somnos
<b>Glutethimide</b>	Doriden
<b>Methaqualone</b>	Quaalude

**Other Depressants** Equanil, Miltown, Noludar,  
Placidyl, Valmid

**STIMULANTS:**

**Cocaine** Coke, Flake, Snow, Crack  
**Amphetamines** Binehetamine, Desoxyn, Dexedrine  
**Methylphenidate** Ritalin  
**Phenmetrazine** Preludin  
**Other Stimulants** Adipex, Bacarate, Cylert  
Didrex, Lonamin, Plegine, Pre-  
Sate, Sanorex, Tenuate,  
Tepanil, Voranil

**HALLUCINOGENS:**

**Amphetamine Variants** 2, 5-DMA, PMA, STP, MDA, MDMA,  
TMA, DOM, DOB  
**LSD** Acid, Microdot  
**Mescaline and Peyote** Mese, Buttons, Cactus  
**Phencyclidine** PCP, Angel Dust, Hog  
**Phencyclidine Analogs** PCE, PCPy, TCP  
**Other Hallucinogens** Bufotenine, Ibogaine, DMT, DET,  
Psilocybin, Psilocyn

**CANNABIS:**

**Hashish** Hash  
**Hashish Oil** Hash Oil  
**Marijuana** Pot, Acapulco Gold, Grass,  
Reefer, Sinsemilla, Thai Sticks  
**Tetrahydrocannabinol** THC



**ADDENDUM TO THE CITY OF PORT ST. LUCIE'S  
SUBSTANCE ABUSE POLICY AND ESTABLISHMENT OF THE  
D.O.T. MANDATORY CONTROLLED SUBSTANCE AND  
ALCOHOL TESTING PROGRAM**

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**ADDENDUM TO THE CITY OF PORT ST. LUCIE'S  
SUBSTANCE ABUSE POLICY AND ESTABLISHMENT OF THE  
D.O.T. MANDATORY CONTROLLED SUBSTANCE AND  
ALCOHOL TESTING PROGRAM**

**FOREWORD-**

**In compliance with the Department of Transportation Mandatory Controlled Substance and Alcohol Testing Program, city employees who are required to possess a Florida Commercial Driver's License (CDL) as a pre-condition of employment and continued employment in their respective job classification shall be subject to both the city's Substance Abuse Policy contained herein and periodic random drug and alcohol testing as required by federal law. Copies of this random drug testing policy shall be provided to the affected employees effective January, 1996.**

**ADDENDUM TO THE CITY OF PORT ST. LUCIE'S  
SUBSTANCE ABUSE POLICY AND ESTABLISHMENT OF THE  
D.O.T. MANDATORY CONTROLLED SUBSTANCE AND  
ALCOHOL TESTING PROGRAM**

**I. INTRODUCTION**

**A. POLICY OVERVIEW**

The City of Port St. Lucie recognizes that drug and alcohol abuse in the workplace are serious, complex, but not insurmountable programs. Such abuse creates health and safety risks for all employees, their family members, and co-workers. Management believes that it has an obligation to provide all employees with a safe and productive working environment and to operate in a stable, efficient, and cost effective manner.

Drug and alcohol abuse takes an unacceptable toll in the workplace in terms of accidents, absenteeism, turnover, poor service, and higher health care and workers' compensation claims.

**B. STATEMENT OF POLICY**

The city hereby declares its offices, worksites, and all owned property to be part of a Drug-Free Workplace.

The use, possession, transportation, or sale of illegal drugs (defined as the use of legal drugs in an illegal manner or the use of drugs which are not legally obtainable) or alcohol is strictly prohibited while on city property or conducting government business.

No employee shall appear for work or work under the influence of illegal drugs or alcohol.

A successful Drug-Free Workplace program depends upon how well the city can inform its employees of the hazards of drug and alcohol use and upon how much assistance can be provided for employees who are using drugs or alcohol. It is equally important to ensure respect for the dignity and privacy of each employee while striving toward the goal of a Drug-Free Workplace.

**C. APPLICABILITY**

The Omnibus Transportation Employee Testing Act of 1991 requires alcohol and drug testing of CDL drivers who perform safety-sensitive functions in both interstate and intrastate truck and motor coach operations, including those operated by federal, state, and local government agencies.

Certain employees are exempt from these rules only if they have been waived from the CDL requirements by the state licenser and local government agency.

City employees subject to rules and regulations prescribed by the U.S. Department of Transportation, Federal Highway Administration must comply with the Controlled Substance and Alcohol Use and Testing procedures outlined in the Federal Register 49 CFR Parts 382 and 49 CFR Part 40.

**D. GENERAL NOTICE**

A general notice from the Deputy City Manager, announcing this program, will be provided to all employees prior to the commencement of testing procedures. Employees will be required to sign verification that they have received, read, and understand the content of the general notice.

The general notice shall be provided immediately upon issuance of this plan, and shall, at a minimum, explain:

1. The purpose of the mandatory Controlled Substance and Alcohol Testing Program (49 CFR Parts 382 and 49 CFR Part 40);
2. What types of drug testing the program will include;
3. The circumstances under which testing may occur; and
4. The availability and procedures necessary to obtain counseling and rehabilitation through the EAP.

**E. EMPLOYMENT ANNOUNCEMENTS**

Every employment announcement for safety-sensitive positions with the city should state:

“The city is committed to a Drug-Free Workplace Program, and all applicants selected for safety-sensitive positions will be required to submit to screening for illegal drug use prior to appointment. No person found to have a confirmed positive test for illegal drugs will be extended an offer of employment.”

In addition, employment applications should include the same statement and applicants will be required to sign the statement indicating that they have read and understand same.

## II. DEFINITIONS

Accident means an occurrence involving a commercial motor vehicle operating on a public road which results in:

1. A fatality;
2. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
3. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other vehicle.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle –

1. Has a gross weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
2. Has a gross vehicle weight rating of 26,001 or more pounds, or
3. Is designed to transport 16 or more passengers, including the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Confirmation test for alcohol testing means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substances, testing means a second analytical procedure to identify the presence of a specific drug or metabolite, which is independent of the screen test in order to ensure reliability and accuracy. (Gas chromatography / mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.)

Driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: full-time regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. For the purposes of pre-employment/pre-duty testing only, the term *driver* includes a person applying to an employer to drive a commercial motor vehicle.

Employer means any person (including the United States, a State, District of Columbia, a political subdivision of a State) who owns or leases a commercial motor vehicle or



assigns persons to operate such a vehicle. The term employer includes an employer's agents, officers, and representatives.

Performing (a safety sensitive function) means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.

Refuse to submit (to an alcohol or controlled substances test) means that a driver:

1. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;
2. Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or
3. Engages in conduct that clearly obstructs the testing process.

Safety-Sensitive function means any of those on-duty functions set forth in ss 395.2 *On-Duty Time*, paragraphs (1) through (6) of this chapter.

*On-Duty Time* means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. *On-Duty Time shall* include:

1. All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property waiting to be dispatched unless the driver has been relieved from duty by the motor carrier;
2. All time inspecting equipment as required by ss 392.7 and 392.8 of this chapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
3. All driving time as defined in the term driving time in this section.
4. All time, other than driving time, in or upon any commercial motor vehicle or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

### **III. DUTIES AND RESPONSIBILITIES**

#### **A. DRUG PROGRAM COORDINATOR**

The City shall appoint a Drug Program Coordinator assigned to carry out the purposes of this Program. The Drug Program Coordinator will be responsible for directing the operation of the program. The Drug Program Coordinator will serve as the central connection between the drug collection agency and the city. All applicants or employees requiring drug testing will be referred to the Drug Program Coordinator who will oversee the following functions:

1. Schedule and authorize all drug testing required under his Program;
2. Ascertain that all employees/applicants to be tested have a photo I.D.;
3. Receive all drug and alcohol test results from the collection agency and take the responsibility of forwarding that information to the proper City officials or employees;
4. Ensure that all employees verify their receipt of the General Notice as specified in Section I.D.;
5. Ensure that a statement of the city's drug and alcohol testing policy is included in employment application materials;
6. Oversee training and education sessions regarding this Drug-Free Workplace Program; and
7. Provide information and documentation related to the administration of this Program to the Personnel Director or Deputy City Manager.

#### **IV. ON-THE-JOB USE, POSSESSION OR SALE OF DRUGS OR ALCOHOL**

While on city premises or during the conduct of city business, the use, possession, manufacture, sale, or transfer of any illegal drug or alcohol is strictly prohibited.

Any employee who, while on city premises or during the conduct of city business, uses, possesses, manufactures, sells or transfers any illegal drug or alcohol shall be subject to immediate dismissal.

##### **A. ALCOHOL**

Being under the influence of alcohol, by any employee, while performing city business or while in a city facility, is prohibited to the extent that such use or influence may affect the safety of co-workers or members of the public, the employee's job performance, or the safe or efficient operation of the city facility. Consumption of alcohol in a city facility is prohibited.

##### **B. LEGAL DRUGS**

Except as provided below, the use of or being under the influence of any legally obtained drug by an employee while performing city business or while in a city facility is prohibited to the extent such use or influence may affect the safety or efficient operation of the city facility.

Employees shall notify management in advance if they plan to report to work under the influence of any drug, either prescription or over-the-counter, if such drug may have the effect of altering or in any way interfering with coordination, performance, perception, or judgment. It is also important that employees identify any legal drugs that may be in their systems before taking any drug tests.

##### **C. ILLEGAL DRUGS**

The use, sale, purchase, transfer, or possession of an illegal drug by any employee while in a city facility or while performing city business is prohibited. The presence in any detectable amount of any illegal drug in an employee while performing city business or while in a city facility is prohibited.

## **V. DRUG AND ALCOHOL TESTING GUIDELINES**

### **A. ACCIDENT OR UNSAFE PRACTICE TESTING**

The city is committed to providing a safe and secure work environment. Employees involved in on-the-job accidents or who engage in unsafe on-duty job-related activities that pose a danger or adversely affect the overall operation of the city may be subject to testing for illegal drugs or alcohol. Based on the circumstances of the accident or unsafe act, testing may be initiated when such situations involve:

1. A death or injury requiring immediate medical attention;
2. Damage to city or private property; or
3. The failure to use the proper safety equipment or procedure.

### **B. D.O.T. TESTING (CDL DRIVERS IN SAFETY-SENSITIVE POSITIONS)**

1. Pre-employment testing (controlled substances): only those driver applicants of safety-sensitive positions who receive a conditional offer of employment need to be tested;
2. Reasonable cause testing based on observable action and documented by trained supervisors in the detection of probable drug or alcohol use. Reasonable cause is defined by the D.O.T. as charged at the scene of the accident.

Reasonable cause testing may be based upon, but not limited to, the following:

- a. Direct observation of drug or alcohol use or possession and/or the physical symptoms of being under the influence of a drug, including alcohol, which pose a danger to that employee, co-workers, city property or the general public;
- b. A pattern of abnormal conduct or erratic behavior;
- c. Arrest or conviction for a drug-related offense;
- d. Information provided either by reliable and credible sources that is independently corroborated; or
- e. Evidence that the employee has tampered with a previous drug or alcohol test.

Reasonable cause does not require certainty, but mere “hunches” are not sufficient to meet this standard.

3. Random testing will be conducted just before, during, or just after an employee’s performance of safety-sensitive duties. The employee is randomly selected for testing from a pool of employees subject to testing; dates and times are announced; and testing is spread reasonably through a 12 month period at an annualized rate of 25 percent for alcohol, and at an annualized rate of 50 percent for controlled substances.
4. Post-accident testing will be conducted immediately following an accident, if any person involved in the accident has been fatally injured or the driver received a citation for a moving traffic violation arising from performance of a safety-sensitive function with respect to the accident; or based on reasonable cause testing.
6. Return-to-duty and follow-up testing will be conducted when an individual has violated the prohibited drug and alcohol conduct standards and returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least six tests must be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

#### C. PROCEDURES

If an employee is suspected of using illegal drugs or alcohol, the appropriate supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion. This information should be given to the Division Manager or Department Head as appropriate for review.

When higher level concurrence of a reasonable cause determination has been made, the appropriate supervisor will refer the employee to the Drug Program Coordinator for immediate testing. A written report detailing the circumstances which formed the basis to warrant testing should be prepared. This report should include the appropriate dates and times of reported drug or alcohol related incidents, sources of information, rationale leading to the test and action taken once the results of the tests are known. The original report should be marked “confidential” and sent to the Personnel Director or Deputy City Manager for safe keeping.

#### D. COLLECTION AND TESTING PROCEDURES

1. Collection sites will be designated for drivers to provide specimens. The sites will be secure and capable of shipping specimens under the required D.O.T. chain-of-custody to a NIDA (National Institute on Drug Abuse) certified laboratory.

2. Only a NIDA certified laboratory may test the driver sample. A NIDA laboratory will be designated which will conduct the initial drug screen and, should a positive result be indicated, a second test will be conducted to confirm.
3. Tests will be conducted for the following:
  - a. Alcohol – the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
  - b. NIDA-5: Marijuana metabolite, Cocaine metabolite, Opiates (morphine, codeine), and Phencyclidine (PCP).

#### E. MEDICAL REVIEW OFFICER (MRO)

1. A licensed physician who is familiar with drugs and alcohol will be designated as the MRO. The MRO must validate the chain-of-custody; must validate all negative test results.
2. The MRO will report test results, only as a negative or a positive, to the designated Drug Program Coordinator. Any additional information the driver may seek on test results will be referred to the MRO.
3. The MRO is the sole custodian of individual test results and must retain reports of individual test results for a minimum of five years.
4. The MRO must keep specimen samples a minimum of one year for negatives and a minimum of five years for positive test results.

#### F. NOTIFICATION AND DRIVER QUALIFICATION

1. A driver with a positive test result will be notified immediately, by the MRO.
2. Any driver, who so requests, will be notified of his test results within 60 days.
3. Any driver with a positive test or who refuses to test is immediately deemed unqualified to drive and will be subject to any of the disciplinary actions as outlined in VII.C.

#### G. FAILURE TO APPEAR FOR TESTING

Failure to appear for testing or refusal to cooperate with standard collection procedures will be considered refusal to participate in testing.

Refusal to participate in testing as required will subject the employee to a full range of disciplinary options including termination.

Any job applicant refusing to participate in a drug test will not be extended an offer of employment.

#### H. OPPORTUNITY TO JUSTIFY A POSITIVE TEST RESULT

All positive test results will be confirmed as positive by the laboratory prior to notifying the MRO. When a confirmed positive test has been reported to the MRO by the laboratory, it will be reviewed by the MRO with regard to medical history provided by the employee at the time of collection in order to determine if the result can be explained by the legal use of prescribed or administered medication. The driver has 60 days to justify the positive results; however, the employee cannot drive during that time.

#### I. OPPORTUNITY TO CONTEST A POSITIVE RESULT

Within five days after receiving notice of a positive confirmed test result, the employee may submit information explaining or contesting the result. The Drug Program Coordinator should contact the Personnel Director or Deputy City Manager for instructions on replying to the employee.

However, employees should note that they have the right to have a portion of the original specimen re-tested at their expense at a laboratory that meets or exceeds the city's requirements. The specimen shall be re-tested at equal or greater sensitivity for the drug or alcohol in question and the city reserves the right to inspect the integrity of the chain of custody. The employee will be disqualified from driving while awaiting test results.

## **VI. CONFIDENTIALITY OF RECORDS**

All drug testing information specifically relating to individuals is confidential and should be treated as such by anyone authorized to review or compile program records. In order to efficiently implement this program and to make information readily retrievable, the Drug Program Coordinator shall maintain all records relating to applicant testing and any other authorized documentation necessary to implement this program.

All records and information regarding personnel action taken on employees with confirmed positive results should be forwarded to the Personnel Director or Deputy City Manager. The records will remain confidential and be stored with reasonable attention to security. Such records shall only be accessed by authorized city officials on a “need to know” basis.

When an employee has been referred to the EAP (See Section VIII), that service shall maintain all records necessary to carry out its duties. All medical and/or other records of the identity, diagnosis, prognosis, or treatment are confidential and may only be disclosed with written consent of the employee.

## **VII. FINDINGS OF DRUG OR ALCOHOL USE AND DISCIPLINARY OPTIONS**

### **A. DETERMINATION**

An employee may be found to be using illegal drugs or alcohol on the basis of any appropriate evidence including, but not limited to:

1. Direct observation;
2. Evidence obtained from a criminal conviction;
3. A confirmed positive test result; or
4. An employee’s voluntary admission.

### **B. MANDATORY ADMINISTRATIVE ACTIONS**

The city will provide the employee the name and telephone number of the EAP. Any employee who is subject to the D.O.T. mandatory controlled substance and alcohol testing program will be immediately removed from that position pending evaluation and will be subject to disciplinary measures as described in subsection C below.

### **C. DISCIPLINARY ACTIONS**

Disciplinary action taken against an employee found to be using illegal drugs or alcohol may include the full range of disciplinary actions, including termination of employment. The severity of the action chosen will depend on the circumstances of each case. The city will initiate disciplinary action against any employee found to be using illegal drugs or alcohol, however, such action is not necessarily required for an employee who voluntarily admits to illegal drug or alcohol use and obtains counseling and rehabilitation and thereafter refrains from using illegal drugs or alcohol.



**Such disciplinary action may include any or a combination of the following measures:**

1. Reprimanding the employee in writing;
2. Suspending the employee with or without pay for seven days or less;
3. Suspending the employee with or without pay for eight days or more;
4. Termination of employment;
5. Loss of worker's compensation medical and indemnity benefits.

**D. REFUSAL TO TAKE A DRUG TEST WHEN REQUIRED**

An employee who refuses to be tested or to cooperate with established testing procedures when so required will be subject to the full range of disciplinary options outlined above including loss of workers' compensation medical and indemnity benefits. No applicant who refuses to be tested shall be extended an offer of employment. An employee who attempts to alter or substitute the specimen provided will be deemed as refusing to take the drug test and will be subject to the full range of disciplinary options as well.

**VII. EMPLOYEE ASSISTANCE PROGRAM (EAP)**

**A. FUNCTION**

An employee using illegal drugs or alcohol may contact the EAP. The EAP is a confidential counseling service for the employee and immediate family members. The city has contracted for EAP sessions for problem assessment, supportive professional consultation, counseling, information and referral to other agencies. However, if the employee action plan calls for continuing treatment, the employee will be responsible for those costs.

**B. PROCEDURES**

All employees should have received information about the EAP with the General Notice sent to them as defined in Section I.D. New Employees should receive the information from the Human Resources Division when hired.

The D.O.T. Controlled Substance and Alcohol Testing Program requires the city to provide all employees with information about the problems of using illegal drugs and alcohol and information about local and national services available if they believe they may have a drug or alcohol problem.

**C. CONFIDENTIALITY**

All EAP operations are confidential and information about employees is not shared with the city unless the employee desires to share the information and signs the appropriate release of information.

## **IX. SUPERVISORY TRAINING**

### **A. OBJECTIVES**

Supervisors have a key role in establishing and monitoring a Drug-Free Workplace. The city will provide training to assist them in recognizing and managing illegal drug or alcohol use by employees.

### **B. IMPLEMENTATION**

The Drug Program Coordinator will be responsible for implementing a supervisory training package that ensures that all supervisors are fully informed about the city's Drug Free Workplace Program. Initial training shall occur within 90 days of the distribution of the General Notice as prescribed in Section I.D., or as soon as practicable.

1. The city will provide annual training for drivers and supervisors (minimum of 30/60 minutes, respectively), which will include:
  - a. Effects and consequences of controlled substance use on personal health and safety;
  - b. Behavioral causes that may indicate controlled substance use or abuse; and
  - c. A discussion of the D.O.T. Controlled Substance and Alcohol Program and EAP.
2. The city will keep on file a written statement outlining the EAP program, together with documentation of training given to drivers and supervisors.

## **X. ADMINISTRATION**

### **G. RECORD KEEPING**

1. A calendar year summary of records pertaining to the administration and results of the testing program must be maintained for a minimum period of five years and include information on the number of tests administered, both in total and by category; total number of individuals with positive test results, both in total and by category; disposition of individuals with positive results; plus certain laboratory information pertaining to the tests performed.
2. The Driver File in the Human Resources/Risk Management office must contain the following:
  - a. The date of the test;
  - b. The exact name and address of the collection site;
  - c. The identity of the person and laboratory performing the test;
  - d. The results of the test listed as Positive or Negative.