



1205 - SUBSTANCE ABUSE POLICY AND PROCEDURES

City employees must be able to perform their duties in such a manner as to avoid endangering the health, safety and well-being of fellow workers and citizens. Any employee who is found to be under the influence of a controlled substance on the job or who refuses to test for controlled substances or alcohol under the circumstances stated in this policy will be dismissed. An employee found to be under the influence of alcohol while on the job will be subject to personnel action, including dismissal.

This policy deals with the use and possession of alcohol and controlled substances by City employees. No department may deviate from this policy unless so authorized in writing by the City Manager.

I. DEFINITIONS

- A. Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- B. Alcohol Use - The consumption of any beverage, mixture or preparation, including any medication, containing alcohol.
- C. Breath Alcohol Technician - A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.
- D. Chain of Custody - The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed.
- E. City Employees - employees, agents, and volunteers of the City of Newport News, under the general direction of the City Manager (collectively referred to herein as "employees").
- F. City Motor Vehicle / Equipment - Any licensed/unlicensed motor vehicle or equipment (on road/off road) owned, leased, maintained, insured by, or loaned to the Newport News City Government. This includes all motor vehicles, rolling stock, lawn equipment, marine equipment, generators (stationary or portable), and pumps. Use or operation shall be defined as starting the ignition/motor vehicle and/or moving, towing or driving the City vehicle / equipment. Any reference made in this Policy to a City motor vehicle or vehicle shall also mean and include City equipment.
- G. Collector - A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees and who initiates and completes the Custody and Control Form.
- H. DHHS Certified Lab - A laboratory certified by the U.S. Department of Health and Human Services to perform controlled substances testing.

- I. Evidential Breath Testing Device - A device approved for the testing of breath at the .02 and .04 alcohol concentrations.

- J. Illegal Drug and Controlled Substance are interchangeable and mean any of the following:
 - 1. Any drug or controlled substance the possession of which is prohibited by law. These illegal drugs include, but are not limited to, marijuana, cocaine, heroin, opiates, phencyclidine (PCP), amphetamines and imitations thereof.
 - 2. Any drug or controlled substance which is used in a manner different from that authorized by law.
 - 3. Any drug or controlled substance which is legally obtainable but which has not been legally obtained.

- K. Medical Review Officer (MRO) - A licensed physician responsible for receiving and reviewing laboratory results generated by an employer's controlled substances testing program and evaluating medical explanations for certain drug test results.

- L. Performing (A Safety-Sensitive Function) - With respect to CDL holders means a CDL holder 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 functions.

- M. Refusal to Test - Any of the following:
 - 1. Refusal to sign a consent form.
 - 2. Refusal to submit to a controlled substances or alcohol test.
 - 3. Any conduct or failure to cooperate that obstructs the testing process.
 - 4. Any attempt to substitute, adulterate or contaminate a specimen or to alter a test result.
 - 5. Failure to provide adequate breath for alcohol testing without a valid medical explanation and failure to provide adequate urine for controlled substances testing without a valid medical explanation.
 - 6. Failure to appear or remain readily available for required alcohol and controlled substances testing in accordance with the provisions of this policy.

- N. Safety-Sensitive Function - With respect to CDL holders, means all time from the time a driver begins to work or is required to be in readiness to work until the time relieved from work and from all responsibility for performing work. Safety-sensitive

functions shall include, but not be limited to:

- All time inspecting, servicing or conditioning any commercial motor vehicles at any time.
 - All time spent at the driving controls of a commercial motor vehicle in operation.
 - All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- O. Standards of Conduct Policy - Section 1000 of the Personnel Administrative Manual including any future changes or additions.
- P. Substance Abuse Professional (SAP) - A person who evaluates employees who have violated a Department of Transportation (DOT) drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing and aftercare.
- Q. Under the Influence of Drugs or Controlled Substances - Having any detectable trace of an illegal drug in the blood or urine.
- R. Under the Influence of Alcohol - Having an alcohol concentration of .04 or more.

II. RESTRICTIONS ON POSSESSION AND USE OF ALCOHOL AND CONTROLLED SUBSTANCES

A. Policies Applicable to All Employees

Each of the following actions is prohibited by this policy:

1. The possession or use of alcohol or a controlled substance on the job.
2. Reporting to work or being at work under the influence of alcohol or a controlled substance.
3. The operation of City vehicles or equipment while under the influence of alcohol or a controlled substance.
4. The manufacture or unauthorized distribution of illegal drugs or alcohol on the job or on City premises.
5. Refusal to test.

B. Additional Policies for Employees in Public Safety and Related Positions

Employees in positions with direct responsibilities for public safety and health are required, as a condition of employment, to refrain from the use of controlled substances both on and off the job and are subject to random testing for controlled substances in addition to other testing as specified by this policy for all employees. These positions are: sworn Police Officers, 911 Dispatcher I, II, and Senior, 911 Dispatch Supervisor, 911 Communications Manager, 911 Communications Administrator, employees of the Police Department responsible for collecting and storing controlled substances as evidence, uniformed Firefighters, Firefighter/Specialists and Firefighter/Medics including officers of all ranks and positions and sworn Fire Marshals and sworn Investigative Services Officers, Fire Department employees responsible for the proper maintenance and care of self-contained breathing apparatus, park rangers, armed animal control employees, employees performing lifeguard duties, employees of the Department of Juvenile Services, armed security employees, water treatment plant operators, technicians servicing and installing public safety communications equipment, employees servicing and repairing public safety equipment and vehicles, and employees servicing and repairing vehicles used to transport fifteen (15) or more people. The City Manager may designate additional positions if such positions have direct responsibilities for public health and safety. Employees presently in positions subject to this provision shall be specifically notified about the contents of this policy.

Job vacancy announcements for these positions will state that these employees are required to refrain from all use of controlled substances and that such employees are required to submit to controlled substances testing on a random basis.

C. Additional Policies for Employees Required to Possess a CDL

Employees who are required to possess a CDL are subject to both City policies and to applicable DOT regulations regarding alcohol and controlled substances use and testing. In addition to the policies applicable to all employees, CDL holders shall refrain from performing safety-sensitive functions within four (4) hours after using alcohol, and refrain from using alcohol for eight (8) hours following any on the job accident or until tested, whichever occurs first.

Employees who are required to possess a CDL are required to submit to testing for controlled substances and alcohol in the following circumstances: reasonable suspicion, random, post-accident, return to duty and follow up as described below. In addition, persons offered employment in a position requiring a CDL shall be subject to a pre-employment controlled substances test. For implementation of this policy, employees whose positions require CDL licenses will be specifically notified by their department of the requirement to possess a CDL. For future position openings, the requisitioning department will indicate if a CDL is required on each position requisition. If a CDL is required, this will be so stated on the vacancy announcement for the position along with the requirements that the employee shall be subject to alcohol and controlled substances testing. If there are any changes in job

requirements which require that a current employee obtain a CDL, the employee will be informed by the department of the policies applicable to CDL holders.

III. ALCOHOL AND CONTROLLED SUBSTANCES TESTING

The City may perform alcohol and controlled substances testing in the following situations:

A. Pre-Employment Testing

1. All persons offered employment with the City in a position covered by Paragraph II.B. or Paragraph II.C. above shall be required to submit to a controlled substances test as a condition of the offer of employment. Those who test positive or refuse to test for controlled substances shall be denied employment.
2. Any employee who is offered a transfer, promotion or demotion to a position described by Paragraph II.B. or Paragraph II.C. hereof, or (b) whose position responsibilities change so as to require a CDL, shall be required to submit to a test for controlled substances as a condition of the offer. If the employee tests positive, or refuses to test for controlled substances, the employee shall be dismissed from employment with the City.
3. Employees requiring appointment as Conservator of the Peace (COP) will require a negative controlled substances and alcohol test as part of the qualification process covered in Section 1407, Conservator of the Peace. All testing required for the COP appointment process will be conducted and processed according to the procedures and standards promulgated by the State of Virginia Department of Criminal Justice Services (DCJS) and will not require another pre-employment controlled substances test under this policy. An applicant who tests positive during the COP process will not be hired. Any employee who tests positive may face disciplinary action under City policy, including termination. Such employees may also be subject to a reasonable suspicion controlled substances or alcohol test.
4. Testing arrangements will be made by the Department of Human Resources and coordinated with the employee's department when necessary.

B. Post-Accident Testing

1. When an employee holding a CDL is involved in an accident on a public or private road or on other property while operating a vehicle requiring a CDL, and the accident results in loss of human life or the employee receives a citation for a moving traffic violation arising from the accident, the employee shall be tested for alcohol and controlled substances as soon as practicable, if the employee is medically able to be tested.
For purposes of the testing required by this paragraph, "accident" is defined as a motor vehicle accident which results in a fatality, or one or more vehicles

incurring disabling damage being transported away from the scene by a tow truck or other motor vehicle, or the need for immediate medical treatment away from the scene for anyone involved in the accident. No driver involved in an accident shall use alcohol for eight hours following the accident or until a post-accident alcohol test is administered, whichever occurs first.

Once the employee has been tested, the employee shall be relieved of duty until a determination of appropriate action is made by the department head following consultation with the Department of Human Resources. Reference Sections V and VI. The Designated Manager shall ensure that the appropriate arrangements are made to have the employee transported to a medical facility or to the employee's home. Under no circumstances will the employee be allowed to operate City equipment.

In the event conditions change, such as a fatality or citation which would require testing, a driver not immediately tested shall be subject to being returned to duty for testing, until the time limits listed in Section VIII expire.

2. In addition to the testing required for CDL holders by the preceding paragraph, any employee operating a City motor vehicle which is involved in any accident shall immediately submit to testing for alcohol and controlled substances when there is reasonable suspicion that the employee is under the influence of alcohol or a controlled substance.
3. An employee shall submit to testing for alcohol and controlled substances immediately following any non-vehicular on-the-job accident when there is reasonable suspicion that the employee is under the influence of alcohol or a controlled substance.

C. Reasonable Suspicion Testing

1. All employees are subject to controlled substances and alcohol testing when reasonable suspicion exists that the employee is under the influence of a controlled substance or alcohol. Reasonable suspicion exists when it is based on specific, articulable facts, and reasonable inferences drawn from those facts. Circumstances which may constitute a basis for concluding that reasonable suspicion exists include, but are not limited to:
 - a pattern of abnormal or erratic behavior
 - information provided by a reliable and credible source
 - statement(s) made by the employee
 - attendance problems
 - job performance problems
 - conviction of possession of controlled substances on or off the job
 - conviction of being under the influence of alcohol or controlled substances on or off the job

- positive alcohol or controlled substances test results on or off the job
 - a work related accident
 - observation of drug or alcohol use
 - the presence of physical symptoms of drug or alcohol use, such as glassy or blood shot eyes
 - odor of alcohol on the breath
 - slurred speech
 - poor coordination or reflexes
 - body odors
 - alcohol or illegal drugs in the employee's possession or in or about the employee's work area, locker or desk
2. Each department and division shall designate one or more specific employees to handle cases arising under this section of this policy. These employees are hereinafter referred to as "designated manager" regardless of position held.
 3. Managers and supervisors at every level are responsible for monitoring their employees' behavior. If a manager or supervisor suspects that an employee may have violated this policy, the manager or supervisor shall investigate the situation, including an interview of the employee if practical. The supervisor should have a second witness, preferably another manager or supervisor, observe the employee and be present at the interview, if possible. The required observations for testing CDL holders shall be made by a supervisor or manager who has been trained in accordance with applicable DOT regulations.
 4. Even if the employee does not admit to a violation of this policy, the designated manager may require immediate testing if there is reasonable suspicion the employee is under the influence of alcohol or a controlled substance. Testing must be authorized by and coordinated with the Director of Human Resources, or designee.
 5. Some medical conditions may produce symptoms similar to those of drug or alcohol use. Therefore, in appropriate cases, the supervisor shall require medical evaluation in addition to referral for alcohol and controlled substances testing.
 6. In any case in which testing has been authorized on the basis of reasonable suspicion, the employee shall be immediately relieved of duty until a determination of appropriate action is made by the department head after consultation with the Department of Human Resources. Reference Sections V and VI. The designated manager shall ensure that appropriate arrangements are made to have the employee transported to a medical facility

or to the employee's home. Under no circumstances will the employee be allowed to operate City equipment.

D. Random Testing

1. Employees designated by Paragraphs II.B. and II.C. hereof are subject to random controlled substances testing. CDL holders are also subject to random alcohol testing in accordance with applicable DOT regulations.
2. Names of employees to be tested on a random basis will be generated by a computer program administered by the Department of Human Resources by which each employee has an equal chance of being tested each time selections are made. Two separate random name generation programs are administered. One program covers employees in positions stated in Paragraph II.B above. A separate program covers employees in positions stated in Paragraph II.C above.
3. Employees will be notified of their selection by a representative of their department and will be given instructions on reporting for testing. Employees shall be escorted to the test site by a designated departmental representative for testing immediately upon notification.

E. Direct Observation Testing

In accordance with CFR 49 Part 40.67(b), CDL holders who are subject to Return to Duty or Follow-up Testing are required to be subject to direct observation of their urine sample. Employees will be observed by a collector or observer of the same gender as the employee. The collector or observer will request that employees raise their shirt, blouse, or dress, above the waist and lower their clothing and underpants to show the collector or observer by turning around that they do not have a prosthetic device. The collector or observer must watch the employee urinate into the collection container.

F. Return to Duty Testing

Return to duty testing is required under circumstances stated in Section VI.

G. Follow-up Testing

Periodic, unannounced follow-up testing is required under circumstances stated in Section VI.

H. Testing of Rehired Employees

In addition to other testing provided for by this policy, former employees of the City or any Constitutional Officer rehired within 5 years after the termination of their

previous employment will be subject to periodic unannounced testing for controlled substances and alcohol for up to 60 months when:

1. The employee was terminated for a violation of policies regarding alcohol or controlled substances, or,
2. The employee resigned while under investigation or while charges were pending for a violation of policies regarding alcohol or controlled substances, or,
3. The employee terminated for any reason within 24 months after a violation of policies regarding alcohol or controlled substances, or,
4. The employee has had a positive controlled substance or alcohol test within the past 5 years.

I. Testing for Certain Newly Hired Employees

Any person who is offered employment by the City and who has had a positive test for a controlled substance or alcohol or refused to test as defined in this policy for any employer, whether hired or not, within the past five years shall be required to submit to periodic, unannounced controlled substances and alcohol testing for a period of up to 60 months, in addition to other testing provided for by this policy, as a condition of the offer of employment.

IV. COLLECTION AND TESTING POLICIES AND PROCEDURES

- A. Arrangements for testing shall be conducted under the supervision of the Department of Human Resources.
- B. All testing shall be done in a manner respectful to the employee.
- C. An employee required to be tested shall be positively identified by the collector and sign a consent form for each test. If the employee refuses to sign a consent form, the employee shall be dismissed.
- D. An employee who requests emergency medical treatment following notice of required alcohol or controlled substances testing shall be transported to the nearest medical facility. Should employee be transported prior to submitting to the required testing, the employee shall be required to release any alcohol and controlled substances test results to the City whether related or unrelated to the medical treatment received, even if the employee is subsequently tested in accordance with this policy. Failure to release all alcohol and controlled substances test results shall result in employee's dismissal.

E. Controlled Substances Testing

The following special provisions apply to testing for controlled substances:

1. All collecting and testing shall be done by a collector who has received qualification training and is knowledgeable of current DOT urine specimen collection procedures, guidelines and DOT agency regulations. Testing and analysis shall be performed by a laboratory certified by the U.S. Department of Health and Human Services (DHHS).
2. Controlled substances testing utilizes a split sample urine specimen. Urine samples shall be provided in private restrooms or enclosures and shall not be observed unless the collector observes behavior which indicates an attempt to tamper with a specimen or when DHHS or DOT regulations require observation. If the employee is unable to provide a sufficient specimen within the time specified in DOT regulations, the test will be stopped. The Director of Human Resources or designee will, after consulting with the MRO, direct the employee to obtain, within five (5) working days, an evaluation from a licensed physician as to whether the employee's inability to provide a specimen was genuine or constituted a refusal to test. The licensed physician must be acceptable to the MRO and have expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. The MRO may perform this evaluation if the MRO has appropriate expertise. If the MRO does not perform the evaluation, the MRO is responsible for providing the referral licensed physician information and instructions as specified in applicable DOT regulations. The Director of Human Resources or designee will notify the department following receipt of the medical determination.
3. Both urine specimens will be forwarded to a DHHS certified laboratory by the collector. The urine specimens shall be handled so as to preserve and protect the test sample and shall be processed on a custody and control form so as to account for its transfer from one individual custodian to another. The results of each test shall be forwarded to the MRO by the laboratory performing the test.
4. In the event the MRO reports a negative dilute test result, another test will be required. The MRO may require the retest to be immediate and to be under direct observation. Additional retesting of a negative dilute test result is not permitted unless the MRO directs an immediate retest under direct observation.
5. In the event of a positive reading, the MRO shall interview the employee to discuss the results and to determine if there is any medical explanation for a positive reading, other than the use of controlled substances, before the MRO reports the results to the Department of Human Resources. The MRO shall make the final determination whether to report a positive or a negative

reading to the Department of Human Resources. If there is no medical explanation for the positive reading, the MRO will inform the employee that the test has been confirmed positive and that the employee has the right to have the split specimen tested by a different DHHS certified lab, and explain the procedures involved. If the MRO is unsuccessful in interviewing the employee, the MRO shall report the results to the Department of Human Resources in accordance with applicable DOT regulations. The Department of Human Resources shall report the results to the employee's department. Split sample testing will not be conducted unless requested by the employee within 72 hours of notification by the MRO.

F. Alcohol Testing

1. Alcohol testing shall be performed by a breath alcohol technician trained to proficiency in the operation of an evidential breath testing device which complies with U. S. Department of Transportation regulations.
2. If the test is positive for alcohol, a confirmation test shall be conducted.
3. If the employee does not provide an adequate amount of breath, or alleges that he/she is unable to provide a sufficient amount of breath because of a medical condition, the Director of Human Resources or designee will direct the employee to obtain, within five (5) days, an evaluation from a licensed physician approved by the City who has expertise in the medical issues raised by the employee's failure to provide a sufficient amount of breath. The Department of Human Resources will provide the physician with the information and instruction required under DOT regulations for the physician to determine whether the employee's inability to provide sufficient breath is genuine or constitutes a refusal to test.

V. EMPLOYEE COMPENSATION AND LEAVE

1. All time spent by an employee while undergoing testing pursuant to this policy, including travel time to and from the collection site, is considered on-duty time and shall be compensated as such. Time spent in testing by applicants is not compensable.
2. When an employee is tested for alcohol, the result is known immediately. If the result is negative, the employee shall be immediately returned to work. If the result is positive, policies as stated in Section VI shall apply.
3. Employees are generally returned to work following controlled substances testing. However, when an employee is tested for controlled substances on a post-accident or a reasonable suspicion basis or had to be observed during the collection process, the employee is placed on administrative leave until test results are received and appropriate action determined. If the results are negative, the employee shall be

- recalled to work as soon as practicable. If the results are positive, the employee shall be dismissed. Reference Section VI below.
4. When the employee is required to obtain a medical evaluation to determine whether the employee's inability to provide sufficient breath or urine is genuine or constitutes a refusal to test, the employee is placed on administrative leave until the Department of Human Resources has received the results of the medical evaluation and the department has taken any required disciplinary action.
 5. When this policy provides for administrative leave, such leave is paid. Should an employee require any leave beyond the stated duration of administrative leave, the employee may request paid personal or medical leave or other paid or non-paid leave as appropriate. Such leave is subject to the City's regular policies governing leave and compensation while on leave.

VI. PERSONNEL ACTION FOR VIOLATIONS OF THIS POLICY

All personnel actions shall be discussed with the Director of Human Resources or designee prior to final determination. Except as provided below, all disciplinary actions shall be taken in accordance with the administrative procedures set forth in the City's Standards of Conduct policy (Section 1000). However, this Policy supersedes the Standards of Conduct in the event of any conflict with respect to the prescribed degree of disciplinary action to be taken.

A. Alcohol Violations

1. All Employees
 - a. When any employee is found to be at work while under the influence of alcohol, the employee shall be immediately relieved from duty and required to use paid or unpaid leave in accordance with City policy for the remainder of the day. The employee's supervisor will require a negative alcohol test before allowing the employee to return to duty. The supervisor shall closely observe the employee upon return to duty to determine if there is reasonable suspicion of a violation of this policy.
 - b. Unless the conduct falls under subsection c., when an employee has a reading of .02 or greater but less than .04, the violation will be considered a Group I offense under the Standards of Conduct policy. A reading of .04 or greater will be considered a Group II offense under the Standards of Conduct policy. In each case, the department head shall make a formal referral to the EAP (see Paragraph 2 below for procedure governing CDL holders). A second incident of being at work while when the employee has a reading of .02 or greater, or any future incident of any type of alcohol violation, shall result in the employee's dismissal.

- c. Notwithstanding the above, a Group III offense is prescribed for a reading of .04 or greater: 1) when the employee is found to be operating or at the driving controls of a City vehicle / equipment, in operation; 2) for the unauthorized consumption of alcohol on the job; or 3) for refusal to test.
- d. Possession of unopened alcoholic beverages in personal vehicles during the employee's work day shall not constitute a violation of law or this Policy. No alcoholic beverages – unopened or opened – are allowed in City vehicles.

2. CDL Holders

In accordance with DOT regulations, the following additional policies apply to CDL holders who are found in violation of alcohol policies:

- a. No action will be taken for a breath alcohol reading below .02.
- b. When an employee has an alcohol reading of .02 or greater but less than .04, the employee shall be immediately relieved from duty and required to use paid or unpaid leave in accordance with City policy for the 24 hour period following the positive test. The employee cannot be returned to work until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following the positive test. However, the employee shall return to duty at that time unless directed otherwise by the City. Notwithstanding the above, the employee will also be subject to disciplinary action as provided in Section A.1.b and A.1.c. of this section.
- c. When an employee has an alcohol reading of .04 or greater, or is found to have used alcohol within four hours before performing safety sensitive functions, the employee shall be immediately relieved from duty and required to use paid or unpaid leave. The employee will also be subject to disciplinary action as provided in Section A.1.b and A.1.c of this section.

If this is a first time violation of being under the influence of alcohol or using alcohol within four hours of performing safety sensitive functions, the following requirements must be satisfied before the employee can return to performing safety sensitive functions: the employee must be evaluated by a Substance Abuse Professional (SAP) with the EAP, the SAP must determine that the employee has properly followed any prescribed rehabilitation program, and the employee has passed a return to work alcohol test with a reading of less than .02. During the time required to satisfy these requirements, the employee shall be placed on leave in accordance with applicable leave and compensation policies. However, at the department's option, and with

the concurrence of the SAP, and the approval of the Director of Human Resources, the employee may be temporarily placed during this time in another assignment which does not involve the performance of safety sensitive functions, provided such assignment is available. The employee is subject to a corresponding salary reduction while on the temporary assignment. Upon return to regular duty, the employee shall be subject to follow-up controlled substances and alcohol tests for up to 60 months. The SAP is the sole determiner of the number and frequency of unannounced follow-up tests and whether the tests are for drugs, alcohol, or both, unless otherwise directed by the appropriate DOT agency regulation. However, the SAP must direct that the employee be subject to a minimum of six (6) unannounced follow-up tests in the first 12 months following the employee's return to duty. A second violation of being under the influence of alcohol at any time or any future incident of any alcohol violation shall result in dismissal.

B. Controlled Substances Violations

1. Any employee found under the influence of a controlled substance or who refuses to test for controlled substances shall be dismissed in accordance with the City's Standards of Conduct policy.
2. An employee in a position covered by Paragraph II.B. above who is found to have used controlled substances within the preceding two (2) years is subject to disciplinary action in accordance with the City's Standards of Conduct policy.
3. An employee in a position covered by Paragraph II.B. or Paragraph II.C. above is subject to personnel action, separate from any disciplinary action that may have been taken under the Standards of Conduct policy, if there is reason to believe the employee has violated this policy during the past two years, whether or not the employee is tested. Such action may include temporary removal from the job, formal referral to the EAP and close monitoring for non-CDL holders, referral to a substance abuse professional with the EAP for CDL holders and close monitoring by departmental management as well as other action appropriate to the circumstances of the individual case.
4. Employees who violate provisions of this policy shall be advised of the resources available in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

VII. REHIRING OF EMPLOYEES TERMINATED UNDER THIS POLICY AND HIRING OF PERSONS WHO HAVE COMMITTED DRUG OR ALCOHOL VIOLATIONS

Former employees of the City or any Constitutional Officer who were found to have committed any violation contained in this policy and who subsequently terminated employment and applicants who have committed a DOT or any other drug or alcohol regulation violation, may be eligible for consideration for job openings in accordance with regular City recruiting and selection policies if the individual presents: (1) a statement from a qualified substance abuse professional or medical professional qualified to treat substance abuse that any required rehabilitation, has been successfully completed and (2) some evidence that no controlled substances have been used for the preceding six (6) months. This evidence may be in the form of rehabilitation program reports, support group attendance reports, controlled substances test reports, successfully holding another job with no performance, conduct or attendance deficiencies, or similar information. However, this policy does not require the City to give the individual any preference nor does it require that any former employee be rehired.

VIII. RECORDS AND REPORTS/CONFIDENTIALITY/RELEASES

A. Recordkeeping

All records regarding an employee's or an applicant's controlled substances or alcohol test(s) shall be maintained by the Department of Human Resources or by the testing facility on a confidential basis. Only those persons with a legitimate need to know shall have access to such records.

B. Departmental Responsibilities for Documentation and Reports

Supervisors and designated managers shall submit the following to the Department of Human Resources in a confidential manner within 48 hours:

1. A written report of controlled substances and alcohol testing based on reasonable suspicion or an accident shall be made within 24 hours of the observed behavior or accident or before the results of the alcohol or controlled substances tests are released, whichever is earlier. The report will recite the facts supporting testing.
 - a. If alcohol testing is not performed within two hours following required CDL post accident testing or the determination of reasonable suspicion, a written record shall be made as to the efforts made to obtain the test and as to why the test was not promptly administered.
 - b. If an alcohol test is not administered within eight (8) hours, the City shall cease attempts to have the employee tested but a written record shall be made as to the efforts made to obtain the test and as to why the test was not administered.

- c. Controlled substances testing shall be done within 32 hours of an accident requiring testing for CDL holders. If the test is not administered within 32 hours, the City will cease attempts to test and a written record shall be made as to the efforts made to obtain the test and why testing was not performed. For employees other than CDL holders and for CDL holders operating a vehicle that does not require a CDL, circumstances may support testing more than 32 hours after an accident if the test cannot be accomplished earlier. A written record shall be maintained of circumstances surrounding the incident and the testing.
2. A written report of the facts surrounding any refusal to comply with controlled substances or alcohol testing and any facts that support an allegation that the employee has attempted to tamper with, contaminate or obstruct the testing process.

C. Types of Documents to be Secured

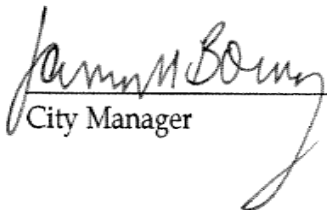
The Department of Human Resources shall be responsible for maintaining the following information in a secure location with controlled access.

1. Records of alcohol and controlled substances tests and results, including the employer's copy of test forms, custody and control forms, and other documents sent by the MRO.
2. Documentation of refusals to test.
3. Records from the collection site facility relating to qualifications, certificates, and other relevant documents.
4. Documents relating to the random selection testing process.
5. Documentation of reasonable suspicion supporting alcohol and controlled substances testing.
6. Documentation generated in connection with post accident testing.
7. Documentation verifying existence of a medical explanation of the inability of the employee or applicant to provide adequate breath or urine for testing.
8. Records of all violations of this policy, including documentation made by supervisors and designated managers.
9. Appropriately obtained records from SAP concerning the employee's request for or need for assistance and compliance with SAP recommendations.

10. Verifications of prior employers' alcohol and controlled substances test results.
11. Records related to education and training, including:
 - a. materials on alcohol misuse and controlled substances use awareness, including a copy of the City's policies
 - b. documentation of supervisory training
 - c. documentation of employee's receipt of policy and educational materials
 - d. agreements with collection site facilities medical review officers and others involved in the testing process
 - e. names and positions of officials and their role in the controlled substances and the alcohol testing program
 - f. statistical information for records and reports

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Approved:



City Manager