

APPENDIX “A”

ALCOHOL & CONTROLLED SUBSTANCE TESTING POLICY AND PROCEDURES

Section 1. Policy Statement: The City recognizes the importance of having a drug and alcohol free workplace and the fact that substance abuse is a treatable illness. It acknowledges that the abuse of drugs, alcohol, or other chemical substances endangers the safety of the public, the employee, and other City employees. Because of these understandings, any employee found using, possessing, selling, distributing or being under the influence of an illegal chemical substance and/or alcohol during working hours or on City property will be subject to discipline up to and including termination.

Section 2. Effective Date: This policy will be effective thirty (30) days after official posting in prominent places on City property and following distribution of the policy to all employees. In addition, a copy will be given to each applicant for employment upon receiving a conditional offer of employment.

Section 3. Authority: This policy will be in accordance with and administered pursuant to 40 O.S. § 551 et. seq.: The Oklahoma Standards for Workplace Drug and Alcohol Testing Act (“Act”).

Section 4. Application: This policy will apply to all employees, not covered by a Collective Bargaining Agreement, as well as all applicants for employment once they have received a conditional offer of employment.

Section 4. Education: All employees will be informed of the City’s drug and alcohol testing policy and procedures, including information concerning the impact of the use of drugs and alcohol upon job performance, how testing is to be conducted, and the consequences of the testing procedures.

Section 5. Pre-Employment Testing: All applicants for positions with the City will undergo drug and/or alcohol testing following a condition offer of employment but prior to final hiring and assignment. Refusal to undergo a test, or a confirmed positive test, will be the basis for withdrawing a conditional offer of employment.

Section 6. Reasonable Suspicion Testing: Drug or alcohol testing may be conducted on any employee when objective evidence exists establishing reasonable suspicion of substance abuse in the workplace. Reasonable suspicion may be based upon, among other things:

6.1 Observable and articulable phenomena, such as physical symptoms or manifestations of being under the influence of drugs or alcohol while at work or on duty or the direct observation of such use while at work or on duty;

6.2 Reports of drug or alcohol use from a reliable and credible source, which is independently corroborated;

6.3 Evidence that an individual has tampered with a drug or alcohol test during his/her employment, or;

6.4 Evidence that an employee is involved in the use, possession, sale, solicitation or transfer of drugs while on duty or while on the City's premises or operating a City vehicle, machinery, or equipment.

6.5 No testing under "Reasonable Suspicion" will be initiated unless the circumstances are properly reviewed and agreed upon by two management/supervisory representatives. However, only one management/supervisory representative is necessary to require an employee to submit to drug/alcohol testing if the supervisor observes the employee ingest, smoke, or use a controlled substance or alcohol. Management/supervisors are prohibited from demanding or encouraging drug or alcohol testing under this section without reasonable suspicion.

6.6 The supervisor will verbally inform the employee of the reason for the suspicion. Additionally, a written record of the observations leading to a drug or alcohol test will be created and signed by the supervisor(s) who made such observations within 24 hours of the observed behavior. A copy of the report will be forwarded to the Mayor.

6.7 The employee involved must stop work immediately and will be transported as soon as possible to the designated testing facility by a management/supervisory employee.

6.8. The employee will not be allowed back to work until the results of the test are known. A management/supervisory employee will make arrangements for the safe transportation of the employee to his/her home. If the results of the test prove negative, any time off will be deemed to be with pay.

Section 7. Post Accident Testing: Post-Accident drug or alcohol testing may be conducted where there has been damage to City property which the City reasonably believes at the time exceeds \$500.00, or injury to an employee or third party, or where there exists reasonable suspicion that the accident, injury or damage was a direct result of the employee's use of drugs or alcohol. The post accident test will be administered while the employee is on duty or as close thereto as possible. If testing cannot be done within two (2) hours of an accident, the manager/supervisor will prepare and maintain a written record of the reasons. After eight (8) hours, efforts to administer testing will cease and a copy of the written record will be forwarded to the Mayor. No employee required to take a post accident alcohol or drug test will use any alcohol or drugs, of any kind, following the accident until he/she undergoes the post accident testing.

Section 8. Random Testing: The City may, at various times, randomly select employees in the categories outlined below for unannounced random testing for controlled substances. The selection of employees to be tested will be by a scientifically valid method so that each employee will have an equal chance of being selected to be tested each time that testing occurs.

- A. Vehicle and equipment operators who are required to maintain a commercial drivers license (CDL);
- C. Mechanics;
- D. Employees having drug interdiction responsibilities;
- E. Employees engaged in activities which directly affect the safety of others; and
- F. Employees who work in direct contact with inmates

Section 9. Post Rehabilitation Testing: The City may require an employee to undergo drug or alcohol tests without prior notice for a period of two (2) years after the employee's return to work following a confirmed positive test, and following participation in drug or alcohol dependency program under a City benefit plan or attended at the request of the City. Post-rehabilitation testing will be conducted in addition to any other testing the employee is subject to under this policy.

Section 10. Substance for Which Tests May Be Given (Including Metabolites)

- Ethyl Alcohol or Ethanol (beer, liquor, etc.)
- Cannabinoids or Marijuana (pot, weed, grass)
- Cocaine (including crack)
- Amphetamines (including speed)
- Opiates (including morphine, codeine, dilaudid, percodan)
- Phencyclidine (including angel dust, PCP)

Threshold reporting levels will be those established and maintained by the Federal Department of Transportation and as utilized by the National Institute for Drug Abuse (NIDA). Any positive levels below those established reporting levels will not be reported to the City Medical Review Officer by the testing laboratory.

Section 11. Methods and Documentation: Collection, storage, transportation, and testing procedures will be conducted in accordance with rules established by the Oklahoma State Board of Health. Appropriate labeling of samples will occur so as to reasonably preclude the probability of erroneous identification of test results. Samples that are appropriate for drug and alcohol testing will be collected with due regard to the privacy of the individual being tested. In no case will the City's representative directly observe collection of a urine sample. An applicant or employee will be given the opportunity to provide notification of any information which he/she considers relevant to the test, including currently or recently used drugs or other relevant information. In the event that an employee wishes to challenge the results of the City's test, he/she may do so as provided in this policy. The employee must have had the sample collected within one hour of the City's sample and

such retest must be in accordance with the standards set forth by the State Department of Health and in this policy.

Section 12. Costs: The City is responsible for all costs associated with drug or alcohol testing. However, if an employee requests a retest to challenge the findings of a confirmed positive test, the employee is responsible for the cost of the test unless that test reverses the findings of the previous positive test, in which case the City is responsible for the cost. Any initial test of a current employee must be performed during or immediately after the employee's scheduled work period and is deemed as compensable work time as applicable under the Fair Labor Standards Act.

Section 13. Refusing to Undergo Testing or Tampering with Sample: Employees refusing to undergo testing according to the terms of this policy or refusing to execute the appropriate consent forms for authorized testing will be subject to disciplinary action up to and including termination. Employees found supplying or attempting to supply an altered sample or a substitute sample, not their own, by whatever means, will be subject to disciplinary action up to and including termination.

Section 14. Medical Review Officer: The City will contract with a Medical Review Officer who will receive confirmed positive test results from the testing facility and evaluate those results in conjunction with the subject employee and/or applicant. Upon receiving a confirmed positive test result, the Medical Review Officer will contact the applicant or employee prior to notification of City officials. The applicant or employee will be given the opportunity to explain the test results.

Section 15. Confidentiality: The City will comply with applicable statutes governing confidentiality and will treat all test and all information related to such test, including interviews, memoranda, reports, and statements as confidential. All records relating to drug testing will be kept separated from personnel records. Records will be the property of the City and will be made available to the affected applicant or employee for inspection and copying upon request.

Section 16. Disciplinary Action: The City reserve the right to take disciplinary action against an employee who tests positive for drugs or alcohol when the test is confirmed by a second test performed on the same sample using the methods prescribed by the Act. However, this will not preclude the use of administrative leave in cases involving reasonable suspicion.

16.1 Voluntary Disclosure: The City will permit an employee who voluntarily comes forward at least eight (8) hours prior to notice of any testing under any of the provisions set forth above admitting a substance abuse problem to initiate rehabilitation through the City's Employee's Assistance Program (EAP). However, those employees in safety sensitive positions may be assigned to non-safety sensitive positions, until a verified negative drug or alcohol test can be obtained from an appropriate testing facility. The affected employee may only be assigned to that position for a maximum of 60 calendar days. At the end of the 60 day period, if the employee can not be assigned back to his/her normal position, the employment of the individual may be terminated based on a review of all relevant circumstances.

16.2 Positive Test Results: The City will evaluate the total employment history of any employee who tests positive for drugs or alcohol before deciding on the appropriate course of action including, but not limited to, prior documented drug or alcohol problems. At the sole discretion of the City, the employee may be offered the opportunity to enter into a rehabilitation program. Continued employment will be contingent upon the successful completion of a rehabilitation program and an agreement to undergo random or periodic drug and/or alcohol post-rehabilitation testing for two (2) years. However, the City reserves the right, at all times, to initiate any level of discipline for any confirmed positive test result, up through and including termination of employment, without affording an employee the opportunity to enter into a rehabilitation program.

16.3 Employees who have tested positive will not be allowed to return to work until they can provide a verified negative "return to work" test from a City approved facility and which test meets the requirements of this policy. An employee may be allowed a maximum of 12 weeks to provide a verified negative "return to work" drug or alcohol test. If a negative test is not provided within 12 weeks, the employee will be terminated. Until a negative "return to work" test is supplied, the employee will be on administrative leave without pay. However, the employee may use accumulated sick leave, vacation leave and compensatory leave during this period of time. An employee may request a "return to work" test no sooner than two weeks from a positive test result, and subsequently every other week thereafter, until a negative "return to work" test is obtained. Employees refusing to seek help or submit to testing in accordance with this policy will be terminated from employment.

16.4 Employees entering into the EAP or other program, after testing positive for drugs and/or alcohol, will be permitted to do so only once. Any future recurrence for abuse with the same or any other substance will result in termination of employment.

Section 17. Testing Procedures: When a drug or alcohol test is deemed appropriate under this policy, the employee's supervisor will transport or arrange for an employee to be transported to the City designated testing facility for testing.

17.1 Employees must present a picture ID (Oklahoma Driver's License or City I.D., etc.) or be accompanied by a supervisor who can provide identification as the employer representative to the testing personnel prior to testing and as required by NIDA procedure.

17.2 The supervisor will make a reasonable effort to ensure that the employee is safely transported to their place of residence after any drug or alcohol testing is completed under criteria of reasonable suspicion or post accident testing.

Section 18. EAP: The City will maintain either an in-house or contractual "Employee Assistance Program." The EAP provided by the City will, at a minimum, provide drug and alcohol dependency evaluation and referral services for substance abuse counseling, treatment or rehabilitation.

Section 19. Penalties and Remedies: Employees are hereby advised that there are certain criminal sanctions and civil remedies for violations of Act contained in 40 O.S. § 551 *et seq.*

Section 20. Prohibitions: No employee will report for duty within four hours after using alcohol or remain on duty while having an alcohol concentration of 0.04 or greater, and no supervisor will permit any employee to perform any work duties if the supervisor is aware the employee has an alcohol concentration of 0.04 or greater. No employee will be on duty or operate a City vehicle or perform job duties while in possession of alcohol nor use alcohol during such duty time. Further, no employee will report for duty, drive a City-owned vehicle or remain on duty when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician and/or when the physician has advised an employee the substance will not adversely affect an employee's ability to drive a vehicle. No supervisor having knowledge that an employee has used a controlled substance will permit an employee to be on duty or drive/operate any City vehicle.

Section 21. Responsibilities of Individuals: In order to comply with the provisions of this policy, each employee assumes the following responsibilities:

21.1 Working Under the Influence of Performance Impairing Medication: Employees who have been prescribed legal medications that might affect the safe performance of their duties are required to notify their supervisors prior to performing any hazardous or dangerous tasks.

21.2 Reporting to Work or Working While Impaired: Employees may not report to work and may not continue to work while impaired by any restricted substance identified in this policy.

21.3 Reporting Violations: The services provided by certain employees are performed, at times, under hazardous and dangerous conditions. Thus, employees are encouraged to come forward and report any violation of this policy to management. This information may be instrumental in the prevention of serious accidents and injuries on the job.