

City of Pikeville, TN

SUBSTANCE ABUSE POLICY



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SUBSTANCE ABUSE POLICY

Section I

A. GENERAL

For purposes of this section, the word “abuse” means the use of illegal drugs, the use of prescription drugs without a legal prescription, the use of prescription drugs other than in accordance with a legal prescription, the use of non-prescription drugs other than for the manufacturer’s indicated symptoms and in accordance with the manufacturer’s recommended dosages unless otherwise directed by a licensed health care provider, the use of alcohol while acting within the scope and in the course of their employment for the City of Pikeville, and/or being under the influence of alcohol while acting within the scope and in the course of their employment for the city.

The City of Pikeville recognizes that the abuse of drugs and alcohol is a serious problem that may involve the workplace. It is the intent of the city to provide all employees with a safe and secure workplace in which each person can perform his or her duties in an environment that promotes individual health and workplace safety and efficiency. Employees of the city are public employees and must foster the public trust by earning and preserving a reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive and drug-free working environment for its employees to properly conduct the public business, the city has adopted this Substance Abuse Policy. This policy is intended to comply with: (1) the Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol- and drug-free environment and to work with persons free from the effects of alcohol and drugs; (2) Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver’s license (CDL) in order to perform functions of their municipal job; and (3) Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries, and related U.S. Department of Transportation (DOT) rules which specify procedures for urine drug testing and breath alcohol testing.

It is the policy of the city that the abuse of drugs by its employees, and impairment in the workplace due to the abuse of drugs and/or alcohol, are prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to dismissal. Prohibited and/or illegal conduct includes but is not limited to:

1. Being on duty or performing work in or on city property while using or under the influence of any one or more of the following: illegal drugs, prescription drugs without a legal prescription, prescription drugs other than in accordance with a legal prescription, non-prescription drugs other than for the manufacturer’s indicated symptoms and in accordance with the manufacturer’s recommended dosages unless otherwise directed by a licensed health care provider, and/or alcohol;

2. Engaging in the manufacture, sale, distribution, use, or possession of illegal drugs or prescription drugs without a legal prescription at any time, whether or not on duty for the city;
3. Engaging in the manufacture, sale, distribution, use or possession of alcohol while on duty or while in or on city property;
4. Refusing or failing a drug and/or alcohol test administered pursuant to this Substance Abuse Policy;
5. Providing an adulterated, altered, or substituted specimen for testing;
6. Use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
7. Use of alcohol, illegal drugs or prescription drugs without a valid prescription at any time within eight hours following an accident/incident if the employee's involvement has not been ruled out as a contributing factor in the accident/incident or until the employee has completed drug and/or alcohol testing procedures.

This Substance Abuse Policy does not prohibit the appropriate use of either legally prescribed or non-prescription medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his or her job-related duties. It is the employee's responsibility to inform the proper supervisory personnel of his or her use of any legally prescribed or non-prescription medication that may adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his or her job-related duties before the employee goes on duty or performs any work for the city.

Employees who are not in an official on-call status and who are called in to work outside their normal duty hours to perform emergency or otherwise unscheduled work are required to report any recent consumption of alcohol to the supervisor making the work request and, if any alcohol has been recently consumed, are to decline the request to report to work. The employee in this instance shall not be disciplined for failure to report to work.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the city shall sponsor a Substance Abuse Policy information and education program for all employees and supervisors. Information will be provided on: (1) the signs and symptoms of drug and/or alcohol abuse; (2) the effects of drug and/or alcohol abuse on an individual's health, work, and personal life; (3) the city's policy regarding drugs and/or alcohol; and (4) the availability of counseling. The Mayor has been designated as the official responsible for informing and educating the city workforce regarding this Substance Abuse Policy and its implementation.

B. SCOPE

This Substance Abuse Policy applies to all employees of the city. The random drug and alcohol testing referenced below shall be required for all employees. Post-offer/pre-employment drug abuse testing policies and procedures of this Substance Abuse Policy apply to applicants who have been given a conditional offer of employment from the city.

C. SUBSTANCE ABUSE TESTING CONSENT FORM

Before a drug test is administered to an applicant, and before either a drug or an alcohol test is administered to an employee for the first time as an employee, such individuals will be asked to sign a substance abuse testing consent form authorizing the testing and permitting release of positive alcohol test results to the city recorder, and release of positive drug test results to the city's medical review officer. The substance abuse testing consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's substance abuse policy.

The substance abuse testing consent form shall set forth the following information:

1. The procedure for confirming and verifying an initial positive test result;
2. The consequences of a verified positive test result; and
3. The consequences of refusing to undergo a drug and/or alcohol test.

The substance abuse testing consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's body.

D. COMPLIANCE WITH SUBSTANCE ABUSE POLICY

Compliance with this Substance Abuse Policy is a condition of employment. The failure or refusal by either an applicant for employment or a current employee to cooperate fully by signing the necessary consent forms or other required documents, or the failure or refusal by either such person to submit to any test or any procedure under this policy in a timely manner, is cause for the City of Pikeville to rescind a conditional offer to hire an applicant for employment or for the city to dismiss a current employee. The submission by either such person of urine specimen or sample that is not his or her own or is adulterated is also cause to rescind a conditional offer to hire or for dismissal.

Any employee convicted of violating a criminal drug statute shall inform the head of his or her department of such conviction (including pleas of guilty and nolo contendere) within five days of conviction occurring. Failure to so inform the city, subjects the employee to disciplinary action up to and including dismissal for the first offense.

E. DRUG ABUSE TESTING

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during drug abuse testing. Failure to present a photo ID is equivalent to refusing to take the drug abuse test. Employees and applicants may be required to submit to drug abuse testing under the following separate conditions:

1. Post-Offer/Pre-Employment Testing

All applicants who have received a conditional offer of employment with the City of Pikeville must undergo a drug test that produces a verified negative drug screen result before commencing employment with the city. In addition, all applicants for any position for which they city requires random drug testing shall be asked if they have, within the last two (2) years:

- a. Been employed by a DOT-regulated employer and, if so, shall be required to obtain from the personnel department and complete Section 1 thereof a form by which they city may obtain information regarding previous employer alcohol and drug test information; and
- b. Either had a verified positive drug test result, or had a confirmed positive alcohol test result, or refused to participate in a drug or alcohol test, and any applicant that responds in the affirmative to such query shall be disqualified from employment until and unless that applicant provide the city with adequate written documentation of successful completion of the return-to-duty process through a certified substance abuse professional (SAP).

2. Post-Accident/Post-Incident Testing

Following any workplace accident/incident determined by supervisory personnel of the city to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a human fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident/incident or who performance cannot be ruled out as a contributing factor to the accident/incident and/or who is reasonably suspected of possible drug use as determined during a routine post-accident/post-incident investigation and/or who receives a citation for a moving violation arising from the accident/incident is required to undergo post-accident/post-incident drug abuse testing. That employee must submit to a drug abuse test that produces a verified negative drug screen result prior to continuing to work for the city.

Post-accident/post-incident drug abuse testing shall be carried out as soon as possible but within 32 hours following the accident/incident. Urine collection for post-accident/post-incident drug abuse testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident/post-incident drug abuse testing is to be performed, the city reserves the right to direct the medical review officer (MRO) to instruct the designated laboratory to perform testing on submitted specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

3. Post-Accident/Post-Incident Testing for Ambulatory Employees

Following all workplace accidents/incidents where drug testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the city to the designated urine specimen collection site as soon as possible but within 32 hours following the accident/incident. No employee whose involvement has not been ruled out as a contributing factor in the accident/incident shall consume illegal drugs or prescription drugs without a valid prescription prior to completing the post-accident/post-incident drug abuse testing procedures.

No employee shall delay his or her appearance at the designated collection site(s) for post-accident/post-incident testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the city and shall result in disciplinary action up to and including dismissal.

4. Post-Accident/Post-Incident Testing for Non-Ambulatory Employees

An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident/incident shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release the medical review officer (MRO) of the city appropriate and necessary information or records that would indicate only whether specified prohibited drugs (and what amounts) were found in the employee's body. Consent shall be granted by each employee at the implementation date of the Substance Abuse Policy of the city or upon hiring following the implementation date.

Post-accident/post-incident urinary consent and testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's body. Only an accepted method for collecting specimens will be used. Any failure to perform post-accident/post-incident testing within 32 hours must be fully documented by the attending medical personnel.

5. Testing Based on Reasonable Suspicion

Drug abuse testing is required for each employee whenever there is reasonable suspicion to believe the employee is using or is under the influence of drugs. That employee must submit to a drug abuse test that produces a verified negative drug screen result prior to continuing to work for the city.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or is under the influence of drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible drug use. One supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior and shall take or may designate someone else to take the employee to the testing site.

Supervisory personnel of the city making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the Mayor within 24 hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

6. Random Testing

All employees of the City of Pikeville are subject to random drug abuse testing.

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random drug testing and the actual presentation of that employee for specimen collection.

Random drug abuse testing dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending upon the random selection.

If an employee is unavailable (e.g. on vacation leave, sick leave, out of city, work-related causes, etc.) to produce a specimen on the date random drug abuse testing occurs, the city may omit that employee from that random testing or await the employee's return to work.

F. RETURN TO DUTY & FOLLOW UP – DRUG ABUSE TESTING

Prior to returning to work for the city, any employee who has violated the prohibited drug conduct standards:

- a. Must submit to a return-to-duty drug abuse test that produces a verified negative drug screen result;
- b. Must be referred to the substance abuse professional of the city;
- c. Must be assessed by the SAP of the city; and
- d. Must, to the satisfaction of the SAP, comply or be in the process of complying with all recommendations of the SAP.

Follow-up drug abuse tests will be unannounced, and at least six drug abuse tests will be conducted in the first twelve (12) months after such an employee return to duty. Follow-up drug abuse testing

may be extended for up to 60 months following return to duty. In this case, the employee will be required to pay for his or her return-to-duty and follow-up drug abuse tests accordingly.

Return-to-duty drug abuse testing that produces a verified negative drug screen result will also be required of all employees who are returning from leave or special assignment in excess of six (6) months. In this situation, the employee will not be required to pay for the drug abuse testing.

G. PROHIBITED DRUGS

All drug abuse test results will be reported to the medical review officer (MRO). If positive results are verified by the MRO, they will be reported to the city recorder. The following is a list of drugs for which tests will be routinely conducted: marijuana metabolites, cocaine metabolites (benzoylecgonine), phencyclidine (PCP), amphetamines, opiate metabolites, and alcohol. The city may test for any additional substances listed under the Tennessee Drug Control Act of 1989 as amended to date or as amended in the future.

H. DRUG-ABUSE TESTING PROCEDURES

Drug-abuse testing will be accomplished as non-intrusively as possible. Affected employees will be taken by a supervisor or designated personnel of the city to a drug test collection facility selected by the city where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection process after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the city to perform the analysis on collected urine samples.

I. DRUG-ABUSE TESTING LABORATORY STANDARDS AND PROCEDURES

All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS).

The Omnibus Act requires that drug-testing procedures include split specimen procedures. Each urine specimen is divided into two bottles labeled as a primary and a split specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the applicant/employee's protection, the results of the analysis will be confidential unless the test results are positive, in which case the positive test results shall be released to the city's medical review officer (MRO) and, if verified by the MRO, to the city recorder.

J. REPORTING AND REVIEWING

The city shall designate a medical review officer (MRO) to receive, report, and file any and all testing information transmitted by the laboratory. This person shall be a licensed health care provider with knowledge of substance abuse disorders.

The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the city.

Reports from the laboratory to the MRO shall be in writing. The MRO may talk with the applicant/employee by telephone upon exchange of acceptable identification.

The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to verified positive test results to the city recorder.

Neither the city, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected applicant/employee, unless such results are necessary in the process of resolution of accident/incident investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having a legitimate right-to-know as determined by the city attorney.

The city shall not engage in Astand-down, the practice of temporarily removing an employee from the performance of duty based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.

K. ALCOHOL ABUSE TESTING

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during alcohol abuse testing. Failure to present a photo ID is equivalent to refusing to take the alcohol abuse test. Employees and applicants may be required to submit to alcohol abuse testing under the following separate conditions:

1. Post-Accident/Post-Incident Testing

Following any workplace accident/incident determined by supervisory personnel of the city to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a human fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident/incident or who performance cannot be ruled out as a contributing factor to the accident/incident and/or who is reasonably suspected of possible alcohol use as determined during a routine post-accident/post-incident investigation and/or who receives a citation for a moving violation arising from the accident shall be required to undergo post-accident/post-incident alcohol testing.

Post-accident/post-incident alcohol abuse testing shall be carried out as soon as possible but within 2 hours following the accident/incident.

2. Post-Accident/Post-Incident Testing for Ambulatory Employees

Following all workplace accidents/incidents where alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the city to the designated breath alcohol test site as soon as possible but within 2 hours following the accident/incident. No employee whose involvement has not been ruled out as a contributing factor in the accident/incident shall consume alcohol prior to completing the post-accident/post-incident alcohol abuse testing procedures.

No employee shall delay his or her appearance at the designated collection site(s) for post-accident/post-incident testing. Any unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the city and shall result in disciplinary action up to and including dismissal.

3. Post-Accident/Post-Incident Testing for Non-Ambulatory Employees

An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident/incident shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the city recorder appropriate and necessary information or records that would indicate only whether alcohol (and what amount) was found in the employee's body. Consent shall be granted by each employee at the implementation date of the Substance Abuse Policy of the city or upon hiring following the implementation date.

Post-accident/post-incident breath alcohol consent and testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the employee's body. Only an accepted method for collecting specimens will be used. Any failure to perform post-accident/post-incident testing within 2 hours must be fully documented by the attending medical personnel.

4. Testing Based on Reasonable Suspicion

Alcohol abuse testing is required for each employee whenever there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or is under the influence of alcohol. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol use. One supervisor who has received alcohol detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior and shall take or may designate someone else to take the employee to the testing site.

Supervisory personnel of the city making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the personnel director within eight (8) hours of the decision to test and before the results of the tests are received by the department.

5. Random Testing

All employees of the City of Pikeville are subject to random alcohol abuse testing.

Employees selected for random alcohol abuse testing are to proceed to the testing site immediately upon notification or as soon as feasibly thereafter, as directed by their supervisor. Random alcohol abuse testing dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year, while others may not be tested at all, depending upon the random selection.

If an employee is unavailable (e.g. on vacation leave, sick leave, out of city, work-related causes, etc.) to produce a specimen on the date random alcohol abuse testing occurs, the city may omit that employee from that random testing or await the employee's return to work.

6. Return-to-Duty and Follow-Up Alcohol Abuse Testing

Prior to returning to work for the city, any employee who has violated the prohibited alcohol conduct standards:

- a. Must submit to a return-to-duty alcohol abuse test that produces a verified negative alcohol screen result;
- b. Must be referred to the substance abuse professional of the city;
- c. Must be assessed by the SAP of the city; and
- d. Must, to the satisfaction of the SAP, comply or be in the process of complying with all recommendations of the SAP.

Follow-up alcohol abuse tests will be unannounced, and at least six alcohol abuse tests will be conducted in the first twelve (12) months after such an employee return to duty. Follow-up alcohol abuse testing may be extended for up to 60 months following return to duty. In this case, the employee will be required to pay for his or her return-to-duty and follow-up alcohol abuse tests accordingly.

Return-to-duty alcohol abuse testing that produces a verified negative alcohol screen result will also be required of all employees who are returning from leave or special assignment in excess of six (6) months. In this situation, the employee will not be required to pay for the alcohol abuse testing.

L. ALCOHOL TESTING PROCEDURES

All breath alcohol testing conducted pursuant to this Substance Abuse Policy shall be performed using evidential breath testing (EBT) equipment and personnel approved by the national Highway Traffic Safety Administration (NHTSA). (Note: The city's Police Department is not permitted to perform this testing unless the test is required because of a traffic accident/incident.)

Alcohol testing is to be performed by a qualified technician as follows:

1. Step One:

An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 breath alcohol level (BAL), the test shall be considered negative and the testing shall terminate. If the result is 0.02 BAL or greater, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

2. Step Two:

Fifteen minutes shall be allowed to pass following the completion of Step One above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall insure that the evidential breath-testing device registers 0.00 BAL on an air blank. If the reading is greater than 0.00 BAL, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00 BAL, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then Step One shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 BAL or greater, then the employee shall be considered to have failed the breath alcohol test, and he or she shall immediately be suspended from duty without pay for a minimum of 24 hours and referred to the substance abuse professional (SAP) of the city. Prior to returning to work for the city, such an employee must be assessed by the city's SAP and must, to the satisfaction of the SAP, comply or be in the process of complying with all recommendations of the SAP, and must be retested by breath analysis and found to have a BAL of less than 0.02. Failure of the breath alcohol test shall result in disciplinary action by proper officials of the city up to and including dismissal.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.02 BAL or greater but less than 0.04 BAL, then the employee shall immediately be suspended from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of less than 0.02 before returning to duty with the city and may be subject to disciplinary action.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the city, when possible.

The complete breath alcohol test form shall be submitted to the personnel director and, if the result was 0.04 BAL or greater, then also to the SAP.

M. SUBSTANCE ABUSE EDUCATION AND TRAINING

1. Supervisory Personnel Who Will Determine Reasonable Suspicion Testing

Training of supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion is to include at a minimum two 60-minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period shall focus on recognizing reasonable indicators of drug abuse, and one shall focus on recognizing reasonable indicators of alcohol abuse.

The city will sponsor a drug-free awareness program for all employees.

2. Distribution of Information

The minimal distribution of information for all employees will include the display and distribution of:

- a. Informational material on the effects of drug and alcohol abuse;
- b. An existing community services substance abuse hotline number, available drug and alcohol abuse counseling, substance abuse rehabilitation, and employee assistance programs for substance abuse;
- c. The city policy regarding the use of prohibited drugs and/or alcohol; and
- d. The penalties that may be imposed upon employees for substance abuse violations occurring in the workplace.

N. CONSEQUENCES OF A VERIFIED POSITIVE DRUG TEST RESULT, A CONFIRMED POSITIVE ALCOHOL TEST RESULT, AND/OR REFUSAL TO TEST

Job applicants will be denied employment with the city and any conditional offer of employment will be rescinded if their pre-employment drug test results have been verified by the city's medical review officer (MRO) as positive or if they refuse to submit to a pre-employment test for drug abuse.

If a current employee fails a test for alcohol (0.04 BAL or greater), or if a current employee's positive drug test result has been verified by the city's medical review officer (MRO), or if a current employee refuses to test for drugs and/or alcohol, then that employee must be referred to the substance abuse of the city. Prior to returning to work for the city, such an employee must be assessed by the city's SAP, must, to the satisfaction of the SAP, comply or be in the process of complying with all recommendations of the SAP, and must submit to return-to-duty substance abuse testing that produces a verified negative result.

If a current employee tests positive for alcohol (0.02 BAL or greater), or if a current employee's positive drug test result has been verified by the city's medical review officer (MRO), or if a current employee refuses to test for drugs and/or alcohol, then that employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and including dismissal. Factors to be considered in determining the appropriate disciplinary response include: the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. The city may choose to allow employees to participate in an education and/or treatment program approved by the city's Employee Assistance Program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

Refusing to submit to an alcohol or controlled substance test means that the employee: (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the reequipment for breath testing in accordance with the provisions of this policy; (2) fails to provide an adequate urine specimen or sample for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement of urine testing in accordance with the provisions of this policy; or (3) engages in conduct that clearly obstructs the testing process. In any case the health care provider or breath alcohol technician shall provide a written statement to the city explaining the refusal to test.

O. VOLUNTARY DISCLOSURE OF DRUG AND/OR ALCOHOL USE

In the event that an employee is either dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, then that employee should voluntarily discuss his or her problem with the respective department head in private. Such voluntary desire for help with a substance abuse problem will be honored by the city. If substance abuse treatment is required, the employee will be removed from duty and put on leave pending completion of the treatment. Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Affected employees of the city are entitled to up to 30 consecutive calendar days for initial substance abuse treatment, provided, however, that the employee must use all vacation leave, sick leave, and compensatory leave available. In the event accumulated vacation leave, sick leave, and compensatory leave is insufficient to provide the medically prescribed and needed treatment for up to a maximum of 30 consecutive calendar days, the employee will be provided leave without pay for the difference between the amount of accumulated leave and the number

of days prescribed and needed for treatment up to the maximum 30-day treatment period. Any leave used for this purpose shall be considered family and medical leave pursuant to the Family and Medical Leave Act.

No disciplinary action may be taken pursuant to this Substance Abuse Policy against employees who voluntarily identify themselves as drug or alcohol abusers, obtain counseling and rehabilitation through the city's Employee Assistance Program or other program sanctioned by the city, and thereafter refrain from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not prohibit disciplinary action for the violation of other aspects of the city's personnel policies and procedures.

Prior to any return-to-work consideration of an employee following voluntary substance abuse treatment, the employee shall provide the personnel director with a written statement from the substance abuse professional of the city that indicates satisfactory compliance, or satisfactory progress toward compliance, with the recommendations of the SAP. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol follow-up testing requirements. The respective department head and the personnel director of the city will consider each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in disciplinary action up to and including dismissal.

These provisions apply to voluntary disclosure of a substance abuse problem by a current employee. Voluntary disclosure provisions do not apply to applicants.

P. MODIFICATION OF POLICY

This statement of policy may be revised by the city at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy of the city.