

CITY OF ALVA DRUG AND ALCOHOL FREE WORKPLACE POLICY

PURPOSE: The City of Alva considers its employees to be its most valuable resource and is concerned about the health, safety, well-being, and satisfactory work performance of all employees. The use, abuse, and dependence on alcohol and/or drugs can seriously affect the health of employees, jeopardize their own safety and that of others, as well as impair job performance.

It is the policy of the City of Alva to comply with all applicable state and/ or federal laws in the administration of creating and sustaining a drug and alcohol free workplace.

It is the policy of the City of Alva that the unlawful manufacture, distribution, dispensing, possession, use of, or being under the influence of, a controlled substance is prohibited in the workplace. Any employee determined to be in violation of this policy while on duty or when wearing a City of Alva uniform, whether on or off duty, is subject to disciplinary action, which may include termination.

The City of Alva pursuant to the Oklahoma Standards for workplace drug and Alcohol Testing Act, effective June 1993 and as amended, and the Omnibus Transportation Employee Testing Act, effective 1991 and as amended; hereby declares and establishes the following Drug and Alcohol Testing policy for employees of the City of Alva (hereinafter referred to as the City).

The City of Alva Drug and Alcohol Free Workplace Policy shall be implemented on March 21, 1996.

A period of thirty (30) days' notice is given to the employees before the implementation of the Drug and Alcohol Testing Policy set forth below. At such time as changes to the Policy may become necessary, the City will give employees at least thirty (30) days' notice before the changes shall take effect.

The City shall supply each employee a copy of the Drug and Alcohol Free Workplace Policy and any changes to the policy to each applicant upon his or her receipt of a conditional offer of employment with the City.

DEFINITIONS: As used in this policy, the defining terms are as follows:

- a) "Alcohol" means ethyl alcohol or ethanol;

- b) "Applicant" means a person that has applied for a position with the City.
- c) "Breath alcohol technician 'BAT' "– an individual who instructs and assists in the alcohol testing process and operates an evidential breath testing device (EBT).
- d) "Commercial Motor Vehicle" – a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
 1. Has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds, or
 2. Has a gross vehicle weight rating of 26,001 or more pounds; or
 3. Is designed to transport 16 or more passengers, including the driver; or
 4. Is of any size and is used in the transportation of hazardous materials requiring placards.
- e) "Confirmation test means a drug or alcohol test on a sample to substantiate the results of a prior drug or alcohol test on the same sample and which used different chemical principles and is of equal or greater accuracy than the prior drug or alcohol test;
- f) "Driver" – any person who operates a commercial motor vehicle (CMV). For the purposes of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle.
- g) "Drug" – means amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, opiates, barbiturates, benzodiazepines, propoxyphene, synthetic narcotics, designer drugs, or a metabolite of any of the substances listed herein;
- h) "Drug or alcohol test means a chemical test administered for the purpose of determining the presence or absence of a drug or its metabolites or alcohol in a person's bodily tissue, fluids, or products;
- i) "Employee Assistance Program" or "EAP" means an in-house or contracted program which, at a minimum, provides drug and alcohol dependency evaluation and referral services for substance abuse counseling, treatment or rehabilitation.
- j) "Employee" means any person who is an employee of the City.
- k) "City" means the City of Alva.
- l) "Random selective basis" means a mechanism for selecting employees for drug or alcohol testing that:
 1. Results in an equal probability that any employee from a group of employees subject mechanism will be selected, and
 2. Does not give the City discretion to waive the selection of any employee selected under the mechanism;
- m) "Reasonable suspicion" means a belief than an employee is using or has used drugs or alcohol in violation of the City's written policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things, but not limited to:

1. Observable phenomena, such as:
 - A) Physical symptoms or manifestations of being under the influence of a drug or alcohol while at work or on duty, or
 - B) Direct observation of drug or alcohol use while at work or on duty,
 2. A report of drug or alcohol use while at work or on duty, provided by reliable and credible sources and which has been independently corroborated,
 3. Evidence that an individual has tampered with a drug or alcohol test during his/ or her employment with the City, or
 4. Evidence that an employee is involved in the use, possession, sale, solicitation or transfer of drugs or alcohol while on duty or while on the City's premises or operating the City's vehicle, machinery or equipment.
- n) "Medical Review Officer (MRO)" means a person, qualified by the State Board of Health, who is qualified by the State Board of Health, who is responsible for receiving results from a testing facility which have been generated by the City's drug or alcohol testing program, and who has knowledge and training to interpret and evaluate an individual's test results together with the individual's medical history and any other relevant information.
- o) "Sample" means tissue, fluid or product of the human body chemically capable of revealing the presence of drugs or alcohol in the human body.
- p) "Safety-sensitive function-
1. All time waiting to be dispatched, unless the commercial motor vehicle driver has been relieved from duty by the employer.
 2. All time inspecting equipment, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
 3. All time spent at the driving controls of a commercial motor vehicle.
 4. All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloading, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
 5. All time spent performing the driver requirements associated with an accident.
 6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- q) "Screening test" – in alcohol testing means an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his or her system. In controlled substance testing it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.
- r) "Substance abuse professional (SAP) – a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance

professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of a clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

- s) "Testing Facility" means any person, including and laboratory, hospital, clinic or facility, either on or off the premises of the City, which provides laboratory services to test for the presence of drugs or alcohol in the human body.

CIRCUMSTANCES UNDER WHICH TESTING WILL BE DONE AND PERSONS WHO ARE
SUBJECT TO BE TESTED

- a) Applicant Testing The City will require all applicants, upon receiving a conditional offer of employment, to undergo drug and/or alcohol testing, and will use a refusal to undergo such testing or a confirmed positive test result as a basis for refusal to hire provided that such testing does not violate the Americans with Disabilities Act of 1990, 42 U.S.C. 12110 et seq., (hereafter referred to as DOT) new or existing drug and alcohol testing regulations. Such testing will be required of all applicants who have received a conditional offer of employment regardless of employment.

Tests required under the Department of Transportation regulations;

1. The City is not required to administer an alcohol TEST OR CONTROLLED SUBSTANCES TEST IT:
 - A. The applicant has undergone an alcohol test within the previous six (6) months, with a result indicating a breach alcohol concentration less than 0.04 and meets the requirements of the DOT.
 - B. The applicant has participated in a drug testing program within the previous thirty (30) days, that meets the requirements of the DOT, and
 - C. The City will check no prior employer of the driver, of whom the City has knowledge, has records of a violation of another DOT agency within the previous six (6) months.
 - D. **Employee Testing:** Employees of the City will be subject to drug and/or alcohol testing under the applicable circumstances:
 1. **Reasonable Suspicion Testing:** The City will require an employee to submit to drug and/or alcohol testing if there is reasonable suspicion that the employee is violating the City of Alva Drug and Alcohol Free Workplace Policy.
 - A. Observations of employee conduct while the employee is at work or on duty, which cause the City to require reasonable suspicion testing of an employee, shall be made by a supervisor or department head who has received training for the detection of symptoms or manifestations of being of being under the influence of a drug or alcohol. Testing will be required of all employees, regardless of classification when reasonable suspicion exists.

- B. The driver of a commercial motor vehicle may be directed to undergo reasonable suspicion testing while the driver is performing safety-sensitive functions, or just after the driver has ceased performing such functions.
 - C. If an alcohol test is not administered within two (2) hours following the determination that reasonable suspicion exists, the Personnel Department shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered.
If an alcohol test is not administered within eight (8) hours following the determination, the City shall cease attempts to administer an alcohol test and shall cite in the record the reasons for not administering the test.
 - D. The City shall not permit an employee to perform or continue to perform job functions, until:
 - i. An alcohol test is administered and the employee's breath alcohol concentration measures less than 0.02; or
 - ii. Twenty-four (24) hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has violated the rules concerning the use of alcohol.
 - E. A written record shall be made of the observations leading to a controlled substance reasonable suspicion test, and signed by the supervisor or department head who made the observations, within twenty-four (24) hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.
2. Post-Accident Testing: The City will require an employee to undergo drug and/or alcohol testing if there is a reasonable suspicion the employee or another person sustained a work-related injury or the City's property was damaged as a direct result of use of drugs and/or alcohol by an employee, in the workplace or while performing job duties.
- A. As soon as practicable following an accident involving a commercial motor vehicle, the City shall test for alcohol and controlled substances, the surviving driver:
 - i. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - ii. Who receives a citation under State or local law for a moving traffic violation arising from the accident?
 - B. No driver of a commercial motor vehicle required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.
 - C. If an alcohol test is not administered within two (2) hours following the accident the Department Head shall prepare and maintain on file, in the Business Office, a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight (8) hours following the determination, the City shall cease attempts to administer an alcohol test and shall cite in the record the reasons for not administering the test.

- D. If a controlled substance test is not administered within thirty-two (32) hours following the accident, the City shall cease attempts to administer a controlled substance test; and the Department Head will prepare and maintain on file, in the Business Office, a record stating the reasons the test was not promptly administered.
 - E. An employee who is subject to post- accident testing shall remain readily available for such testing or may be deemed, by the City, to have refused to submit to testing.
 - F. Nothing in this policy shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
3. **Random Testing.** The City requires drug and/or alcohol testing on a random selection basis, and shall be restricted to employees who preform safety-sensitive functions in the following classifications and/or positions:
- A.** Vehicle and equipment operator employees who are required to maintain a Commercial Driver’s License (hereafter referred to as “CDL”) and operate vehicles and/or equipment in excess of 26,001 pounds;
 - B.** Mechanic employees; and
 - C.** And other employees involved in the repair, operation, or dispatching of vehicles and/or equipment (or as may be required by federal law). Random controlled testing shall be conducted in accordance with the following requirements.
 - A. The City will randomly select employees for testing at the highest minimum annual percentage rate established for the calendar year by DOT rules to which the City is subject.
 - B. The City will use a scientific valid method of random selection which is matched with the driver’s social security number.
 - C. The City will ensure that random testing is unannounced and spread reasonably throughout the calendar year.
 - D. The City will ensure that drivers selected for random testing proceed immediately to the testing site upon notification of being selected.
 - E. In the event a driver, who is selected for random controlled substances testing, is on vacation or an extended medical absence, the City will select another driver for testing.
 - F. No driver of a CMV shall report for duty, or remain on duty, requiring the performance of safety-sensitive functions while having a breath alcohol concentration of 0.04 or greater. The City, having actual knowledge that a driver has a breath alcohol concentration of 0.04 or greater shall not permit an employee to perform or continue to perform safety-sensitive functions.
 - G. No driver of a CMV shall perform safety-sensitive functions within four (4) hours after using alcohol. The City, having actual knowledge that a driver has used alcohol within four (4) hours shall not permit an employee to perform or continue to perform safety-sensitive functions.

- H. No driver of a CMV shall report for duty, or remain on duty, requiring the performance of safety-sensitive functions when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.
 - I. The City, having actual knowledge that a driver has used a controlled substance shall not permit the driver to perform or continue to perform safety sensitive functions except as outlined in (H) above.
 - J. No driver of a CMV shall report for duty, or remain on duty, requiring the performance of safety-sensitive functions if the driver tests positive for controlled substances. The City, having actual knowledge that a driver has tested positive for controlled substance shall not permit an employee to perform or continue to perform safety-sensitive functions except as outlined in (H) above.
 - K. The City may require a driver to inform the City of any therapeutic drug use.
4. **Post-Rehabilitation Testing.** The City will require an employee to undergo drug and/or alcohol testing, without prior notice, for a period of up to five (5) years, commencing with employee's return to work, in the following situations:
- A.** After the employee tested positive on a drug and/or alcohol test required by City; or
 - B.** After having participated in a drug or alcohol treatment program.
5. **Return-To-Duty Testing.** An employee who is not terminated is prohibited from working after a positive drug test result, or alcohol test result indicating a breath alcohol test result indicating a breath alcohol concentration of 0.02 or more, regardless of when the drug or alcohol was ingested and regardless of whether or not the employee is under the influence of alcohol or drugs, as defined by Federal, State, or local law. Employees are subject to the following return-to-duty guidelines:
- A. An employee shall be evaluated by a Substance Abuse Professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and/or controlled substances abuse. The Substance Abuse Professional shall determine that the employee has properly followed any rehabilitation program prescribed.
 - B. Before an employee returns to duty, following a positive alcohol and/or drug test result, the employee shall undergo a return to duty alcohol test with a result indicating a breath alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance.
 - C. The employee shall be subject to unannounced follow-up alcohol and controlled substances tests, ordered by the Supervisor of Manager, following the employees return to duty. The number and frequency of such follow-up testing shall be as recommended by the substance abuse Professional and may consist of at least six (6) tests in the first twelve (12) months following the employees return to duty. The Supervisor, Manager, or his/her designee may direct the employee to undergo return-to-duty and follow-up testing for both alcohol and controlled substances if the Substance Abuse Professional determines that such testing is necessary.

Testing Defined

- a) All Drug and Alcohol Free Workplace testing of employees and applicants shall be conducted at a laboratory selected by the City which has been approved by the Substance Abuse and Mental Health Services Administration (hereafter referred to as "SAMHSA"), pursuant to federal and state law requirements.
- b) The facility will be responsible for:
 - 1. Employing testing procedures that ensure privacy to employees and job applicants consistent with prevention tampering;
 - 2. Employing the split sample method of testing, in the event results of the test are challenged. Without a split sample, a challenged test is considered negative;
 - 3. Employing methods of analysis that ensure reliable test results of the use of gas chromatography/mass spectrometry to confirm positive test results;
 - 4. Employing chain-of-custody procedures that ensure proper identification, labeling and handling of test samples;
 - 5. Employing retention and storage procedures that ensure reliable results on confirmatory tests of original samples; and
 - 6. Employing alcohol screening tests and using approved evidential testing devices that test for prohibited alcohol concentration;
 - 7. Maintaining SAMHSA approved of their facility.
- c) The City shall not permit a driver who refuses to submit to a post-accident alcohol or controlled substance test, a reasonable suspicion alcohol or controlled substance test, or a follow-up alcohol or controlled substance test to perform or continue to work for the City of Alva.
- d) Employee consent will be obtained for each test. Refusal of an employee to consent and submit to testing will subject that employee to disciplinary action, which may include termination of employment.
- e) The City shall pay all cost of testing for drugs or alcohol required by the City, including confirmation tests required by this policy. Provided however, and individual who requests a retest of a sample in order to challenge the results of a positive test shall pay all costs of their retest, unless the retest reverses the findings of the challenged positive test. In such case, the City shall reimburse the individual for the costs of the retest.

Testing Methods and Collection Procedures To Be Used:

- a) Applicant Drug/ or Alcohol Screening Process: The job application form of the City contains Notification of Drug/Alcohol Testing Policy of the City, in accordance with federal and state law. The Application Form must be signed by applicant, acknowledging receipt of Notice of City's Drug and Alcohol Free Workplace Policy.

- b) In order to achieve the City's goal in providing and maintaining a drug and alcohol free work environment for the safety and protection of employees and others, the following procedures are hereby established:
- 1) Upon notification of the selected applicant the Business Office will schedule the applicant for the drug screen/alcohol test.
 - 2) The applicant shall complete the "Applicant/Employee Consent for Drug Screen/Alcohol Test Form. The completed form shall be placed in an envelope with directions to the Medical facility.
 - 3) Applicants refusing to submit to the drug screen and/or alcohol test will be considered to have withdrawn their application for employment.
 - 4) The sample collection site will obtain the specimen from the applicant of sufficient quantity to allow for split sample testing. The specimen will be sent to the laboratory.
 - 5) The laboratory designated by the City shall perform an initial drug screen, which shall be a form of chemical identification with confirmation testing of any positive results with Gas Chromatography/Mass Spectrometry (GC/MS) or other reliable confirmation testing.
 - 6) The alcohol screening tests will be done using approved evidential testing devices that test for prohibited alcohol concentration.

Applicant Test Results

Upon completion of testing, results of the drug screen/alcohol test shall be communicated to the Business Office, after compliance with the procedure listed below:

- a) Test result from drug screen and/or alcohol test.
 - 1) The collection site will notify the Business Office the drug screen and or alcohol test was negative.
 - 2) The Personnel Department may schedule the applicant for a pre-employment physical.
- b) Positive test result from drug screen and/or alcohol test.
 - 1) The collection site Medical Review Officer shall compare the test results to the list of prescribed medications applicant identified as having taken.
 - 2) If a drug screen reveals a drug present which is questionable, the applicant will be contacted by the Medical Officer in order for the applicant to explain, in confidence, and/or provide additional documentation as the Medical
 - 3) The applicant must provide the requested explanation and/or documentation as requested by the collection site Medical Review Officer within forty-eight (48) hours of time of request. Failure to provide information within the forty-eight (48) hours will result in

applicant's drug screen being reported to the Business Office as positive.

- 4) If the applicant provided explanation and/or documentation within forty-eight (48) hours of the request, sufficient to satisfy the Medical Review Officer that the presence of the drug is lawful, the result of the drug screen test shall be reported to the Business Office as negative.

EMPLOYEE DRUG/ALCOHOL TESTING PROCESS

- a) Any drug or alcohol testing shall occur during or immediately after the regular work period of current employees and shall be deemed work time for purposes of compensation and benefits for current employees.
- b) A supervisor who has reasonable suspicion to believe an employee has ingested, inhaled or injected an illegal or unlawful use of drug, or has ingested alcoholic beverage when reporting for duty, while on duty, or during standby or callback duty must act promptly to insure the following:
 - 1) Prohibit the employee from working or continuing to work.
 - 2) Notify a department head or the Business Office and request a personal observation of an employee's conduct to confirm that reasonable suspicion exists.
 - 3) Based on reasonable suspicion shall be required to submit to drug or alcohol testing. Prior to requiring such testing, the basis for the reasonable suspicion shall be communicated by the City in compliance with the state and federal regulations.
 - 4) The employee will be immediately taken, by the supervisor or department head, to a collection facility selected by the City in compliance with state and federal regulations.
 - 5) Before testing, an employee shall sign a form consenting to testing. Failure or refusal to sign the consent form and to submit to testing will result in disciplinary action, which will include termination.
- c) Supervisors are prohibited from demanding or encouraging drug or alcohol testing without reasonable suspicion and without confirmation from a department head or the Business Manager.
- d) Harassment, by any supervisor or department head, of any employee who has been requested or required to undergo a drug screen will subject the supervisor or department head employees to discipline.

EMPLOYEE TEST RESULTS

Upon completion of testing, results of the drug screen and/or alcohol test shall be communicated to the Business Office, after compliance with the procedures listed below.

- a) Test result from drug screen and/or alcohol test.
 - 1) Collection site will notify the Business Office drug screen and/or alcohol test was negative.
 - b) Positive test result from drug screen and/or alcohol test.
 - 1) The collection site Medical Review Officer shall compare the test results to the list of prescribed medications employee identified as having taken.
 - 2) If a drug screen reveals a drug present which is questionable, the employee will be contacted by the Medical Review Officer in order for the employee to explain, in confidence, and/or provide additional documentation as the Medical Review Officer deems necessary to satisfy the Medical Review Officer that the presence of such drug is not unlawful. An employee shall be given the opportunity to explain, in confidence, the result of the test.
 - 3) The employee must provide the requested explanation and/or documentation as requested by the collection site Medical Review Officer within forty-eight (48) hours of time of request. Failure to provide information within the forty-eight (48) hours of time of request. Failure to provide information within the forty-eight (48) hours will result in employee's drug screen being reported to the Business Office as positive.
 - 4) An employee testing positive, to a drug screen and/or alcohol test shall result in the employee being subject to disciplinary actions, which may include termination.
 - 5) If the employee provides explanation and/or documentation within forty-eight (48) hours of the request, sufficient to satisfy the Review Officer that the presence of the drug is lawful, the result of the drug screen test shall be reported to the Business Office as negative.
 - 6) The test results will not be disclosed to any person other than the employee, Personnel director and those involved directly on a need to know basis.
 - 7) Any employee tampering with the results of a drug screen/alcohol test will be terminated.

PERSONNEL ACTION FOLLOWING TESTING

- a) No disciplinary action, except a temporary suspension or temporary transfer to another department, may be taken by the City against an employee based upon a positive test result unless the test result is confirmed by a second test, using gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as approved by rule of the State Board of Health as the cutoff levels determined by Board rule.
- b) The City may take disciplinary action against an employee who refuses to undergo drug or alcohol testing conducted in accordance with the provisions of the City's Policy, the Standards for Workplace Drug and Alcohol Free Workplace Free Act and/or the Omnibus Transportation Employee Testing Act.
- c) An employee discharged on the basis of a refusal to undergo drug and/or alcohol testing or a confirmed positive drug or alcohol test conducted in accordance with the provision of the City's Policy, the Standards for Workplace Drug and Alcohol Free Workplace Free Act and/or the

Omnibus Transportation Employee Testing Act shall be considered to have discharged for misconduct for purposes of unemployment compensation benefits.

- d) An employee may appeal his/her disciplinary action or termination to the City Manager.

SUPERVISORS TRAINING AND EMPLOYEE EDUCATION

- a) Supervisors will be trained:
- 1) To recognize employees when they appear unfit for duty because of drugs or alcohol and how to determine reasonable suspicion.
 - 2) To effectively and appropriately intervene in reasonable suspicion instances.
 - 3) To understand the methods of the City Drug and Alcohol Free Workplace procedures.
 - 4) To effectively and appropriately document reasonable suspicion cases prior to the test, and after the initial hearing.
 - 5) In proper disciplinary measures.
 - 6) In issues relative to privacy, search and seizure, and employee representation rights during investigations.
 - 7) Employee education shall consist of:
 1. Educating employees concerning the harmful effects of drugs and alcohol in the workplace;

The City shall provide educational materials that explain the City's policies and procedures with respect to meeting the requirements of this policy.

The City shall ensure that a copy of these materials is distributed to each employee prior to the start of drug and/or alcohol testing and to each driver hired or transferred into a position requiring driving a commercial motor vehicle.

2. Encouraging employees to voluntarily seek assistance through the Employees Assistance Program;
3. Informing employees concerning the City's concern for correcting drug and alcohol use or dependency before it adversely affects an employee's work record and causes irreparable harm to the employee and the residents of the City.
4. The City shall provide written notice to representatives of employee organizations of the availability of this information.
5. The Personnel Director and/or his/her designee are designated by the City to answer questions concerning distributed materials and City Policies.

RECORD KEEPING AND CONFIDENTIALITY

- a) The City shall maintain all drug and alcohol test results and related information, including, but not limited to, interviews, reports, statements and memoranda, as confidential records, separate from other personnel records. Such records, including the records of the testing facility, shall not be used in any criminal proceeding, or any civil or administrative proceeding except in those actions taken by City or in any

action involving the individual tested and the City of unless such records are ordered released pursuant to a valid court order.

- b) The records described in Paragraph a) above, and maintained by City, shall be the property of the City and, upon the request of the applicant or employee tested, shall be made available for inspection and copying to the applicant or employee. The City shall not release such records to any person other than the applicant, Employee or the City's Medical Review Officer, unless the applicant or employee, in writing, following receipt of the test results, has expressly granted permission for the City to release such records or pursuant to a valid court order.
- c) A testing facility, or any agent , representative to designee of the facility, or any Medical Review Officer, shall not disclose to the City, based on the analysis of a sample collected from an applicant or employee for the purpose of testing for the presence of drugs or alcohol, any information relating to:
 - 1) The general health, pregnancy or other physical or mental condition of the applicant or employee; or
 - 2) The presence of any drug other than the drug or its metabolites that the City requested by identified and for which a Medically acceptable explanation of the positive results, other than the use of drugs, has not been forthcoming from the applicant or employee.Provided however, a testing facility shall release the results of the drug or alcohol test and any analysis and information related thereto, to the individual tested upon his request.

CITY RESPONSIBILITIES UNDER LAW

The Business Office is responsible for notification of the drug testing policy and procedure to employees as specified, and educating and training of employees, department heads, and supervisors as outlined.

EMPLOYEE'S NOTICE TO THE CITY. It is mandatory that any employee notify the City Personnel Department, within five (5) working days, if he/she has been convicted of a criminal drug status violation.

CITY NOTICE TO FEDERAL GOVERNMENT. The City as a recipient of a grant from the Community Development Block Grant Program from the United States Department of Housing and Urban Development (HUD) shall notify HUD within ten (10) days after receiving notice of any employee convicted of a criminal drug statute.