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# Workplace Substance Abuse: What Employers Can Do

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# **Municipal Personnel Report 1989**

No. 2

***Workplace Substance Abuse:  
What Employers Can Do***  
*By Richard L. Stokes*

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**MTAS MUNICIPAL PERSONNEL REPORT NO. 2**

**WORKPLACE SUBSTANCE ABUSE: WHAT EMPLOYERS CAN DO**

by

Richard L. Stokes

MUNICIPAL TECHNICAL ADVISORY SERVICE  
The University of Tennessee  
Knoxville, Tennessee

in cooperation with the Tennessee Municipal League

## ABSTRACT

*Workplace Substance Abuse: What Employers Can Do* discusses substance abuse problems. Options on how municipal employers can minimize exposure to lawsuits are outlined. Steps in establishing a comprehensive substance abuse policy are provided.

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## CONTENTS

Acknowledgements	v
Substance Abuse In The Workplace	3
How To Develop A Comprehensive Substance Abuse Policy	5
Substance Abuse: How Employers Can Minimize Exposure To Lawsuits	6
Appendix 1 Model Policy Statement	9
Appendix 2 Drug/Alcohol Screening Consent Form	17



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**MTAS MUNICIPAL PERSONNEL REPORT NO. 2**

**WORKPLACE SUBSTANCE ABUSE: WHAT EMPLOYERS CAN DO**



# WORKPLACE SUBSTANCE ABUSE: WHAT EMPLOYERS CAN DO

## Substance Abuse In The Workplace

Over the past twenty years, substance abuse in the workplace has become an area of major concern for many municipal government supervisors and managers. The term *substance abuse* describes the use of illegal drugs (cocaine, PCP, marijuana, etc.), and the improper and illegal use of prescription and over-the-counter medications, alcohol, and other chemical compounds.

A study by the National Institute on Drug Abuse (1985) estimates that 18 million adults in the United States have drug and alcoholism problems. In 1985 there were an estimated 5.8 million cocaine users and 36.8 million people who had tried marijuana, cocaine, or other illicit drugs at some time in their lives. The Alcohol and Drug Problems Association of North America estimates that substance abuse on the job costs American businesses an estimated \$100 billion a year. Of this total, \$30 billion is attributed to lost productivity, while the remaining \$70 billion result from accidents on the job. They also suggest that employees with substance abuse problems tend to be absent three to sixteen times more than the average employee. These employees have four times more accidents and use one-third more health care benefits producing five times more on the job compensation claims.

Substance abuse workers are also responsible for 40 percent of all industrial fatalities and on the job injuries. The U. S. government has recorded 48 train accidents caused by alcohol or drug impaired workers resulting in 37 deaths and \$34 million in property damage. Additional costs associated with substance abuse workers include theft and destruction of property, tardiness, faulty decision making, impaired worker morale, impaired customer relations, premature disability and death, and increased workers' compensation insurance costs.

With these facts in mind, what can a municipality do to combat this growing problem? The first step is to recognize the signs of substance abuse in the work force. Early signs of substance abuse problems are subtle. Escalating dependence on drugs and alcohol is often invisible to family, friends, and even to the abuser. Increased tolerance for the substance, turning to the substance to relieve stress, blackouts (periods of memory blankness), and lying about drinking and drug use all indicate the beginning of a substance abuse problem.

Outward signs can be hard for an employer to detect. Since deterioration of job performance is often an early sign of abuse, managers are in an ideal position to observe changes in performance and behavior among their workers. What an employer may observe is an employee who is often absent, comes in late, and leaves early. There are other signs: avoidance of supervisors, a disinterest in personal appearance, drastic mood changes between morning and afternoon (when the morning hangover has subsided and the lunchtime cocktails have taken effect), increased use of cologne and mouthwash to hide tell-tale odors, and frequent trips to the restroom.

Other visible signs of abuse include: tardiness, increased sensitivity to criticism, constant complaints of not feeling well, missed deadlines, mistakes through inattention or poor judgement, repeated minor injuries on and off the job, lack of concentration, money problems, loss of ethical values, and trouble with the law. Once a manager recognizes the warning signs associated with substance abuse, then some type of corrective action can occur.

Drug addiction is not the only reason a person might be absent frequently or display strange behavioral changes. The best course of action is to approach a troubled employee from a job performance standpoint. While an employer may be out of bounds in speculating on an employee's private problems, the employer is entirely within rights in confronting that employee with a record of deficient job-performance.

Observing employee behavior objectively is essential. Employers should train supervisory management to observe and understand the warning signs of substance abuse. Employers should routinely review workers' compensation claims, and health-related absences for indications of their relationship to substance abuse. Undercover investigations and the use of dogs in the search of persons or property may be considered. However, these practices raise a Fourth Amendment question.

If employers opt for the stringent approach, it is important that they have a clear, published policy statement. Reasonable standards must be applied for conducting searches (e.g. ask for employee's consent first; refusal may lead to discharge). It is also important that a witness be present during searches.

Other options include polygraph tests, blood tests, urinalysis tests, and documented information and evidence from other employees. The polygraph test or lie detector test is prohibited in 29 states. Tennessee currently does not have statutes prohibiting or restricting the use of polygraphs or similar devices by employers. Tennessee law does, however, prohibit certain types of inquiries with respect to employment, unless the examination is administered as a result of an investigation of illegal activity (*TCA 62-27-123(d)*). Additionally, Tennessee law establishes procedures to be followed during a polygraph examination (*TCA 62-27-125*). Finally, *TCA 62-27-128* clearly states that no employer may take any personnel action based solely upon the results of a polygraph examination.

Blood tests have high reliability in detecting the presence of even minute amounts of drugs and alcohol. They are, however, considered highly intrusive. Blood tests should be used only with the consent of the employee, or by state qualified, licensed medical personnel in conjunction with a traffic accident or violation of law where there is reason to believe substance abuse is a contributor.

Urinalysis test reliability is controversial, but confirmation tests may increase reliability to 99 percent. The standard screening tests are: (1) Enzyme Multiplied Immunoassay Technique (EMIT); (2) Radio-Immunoassay (RIA); (3) Fluorescence Polarization Immunoassay (FPIA); (4) Thin-Layer Chromatography (TLC). The standard confirmation tests are: (1) Gas Chromatography/Mass Spectrometry (GC/MS); and (2) High-Pressure Liquid Chromatography.

Other employees may also aide in the detection of on the job substance abuse. Employers should obtain voluntary written and signed statements indicating observed incidents of substance abuse by suspect parties.

Many or all of the above will assist a municipality in detecting on the job substance abuse. Early intervention may mean the difference between aiding a good employee with a very serious problem, and a lifetime of costly mistakes and harm to oneself and others.

## **How To Develop A Comprehensive Substance Abuse Policy**

There are a number of concerns associated with the development of a substance abuse policy. Listed below are several areas that must be addressed:

1. Research the issues, legal and nonlegal. Understand the different types of drugs commonly used, their description and effects.
2. Involve top management in policy making. Adopt a policy that weighs the city's interests against the legal privacy rights of the employee. Determine what types of tests your city will want - alcohol, drug, polygraph, or written.
3. Determine which areas of your city are high risk (e.g. public works), or low risk (e.g. receptionist).
4. Draft a policy that clearly outlines the prohibited behavior or activities and the consequences and sanctions resulting from violation of the policy. A good policy should:
  - a. prohibit the use, possession, or sale of drugs on company property.
  - b. prohibit the use, possession, or sale of alcohol on company property.
  - c. prohibit the use, possession, or sale of controlled substances.
  - d. prohibit being under the influence of drugs or alcohol on company property.
  - e. address off the job behavior.

5. Identify who is affected by the policy - drivers, secretaries, applicants, current employees, executives.
6. Lower management personnel should be trained to recognize the symptoms of drugs and alcohol abuse. They should also be trained to implement the policy.

## **Substance Abuse: How Employers Can Minimize Exposure To Lawsuits?**

In reviewing a legal challenge to a drug testing program, courts will examine such issues as (1) which employees are tested; (2) are tests based on reasonable suspicion, probable cause, or are all employees tested; (3) are tests conducted to minimize intrusion on privacy rights of employees; (4) does the employer have a written policy and guidelines concerning drug testing; and (5) are initial positive test results confirmed by use of a more sophisticated analysis such as gas chromatography/mass spectrometry. Listed below are several suggestions consider when implementing a drug testing program:

1. **The employer should not conduct random searches or tests unless in a high risk business category (i.e. public safety, transportation, etc.).** Urinalysis testing for drug or alcohol constitutes a search under the Fourth Amendment (*National Federation of Federal Employees Union v. Weinberger*, 818 F.2d 935, 942 (D.C. Cir. 1987); *National Treasury Employees Union v. Von Raab*, (816 F.2d 170, 176 (5th Cir. 1987)). Under the Fourth Amendment, a search and seizure can be made only with a warrant based on probable cause, or without a warrant under a few exceptions. Public employers should be certain that they are not violating the Fourth Amendment's guarantee against unreasonable searches or seizures, the right to privacy, the right to due process, and the protection against self-incrimination by conducting random searches. (See also *Penny v. City of Chattanooga*, 648 F.Supp. 815 (E.D. Tenn. 1986); *Lovvorn v. City of Chattanooga*, 647 F.Supp. 875 (E.D. Tenn. 1986)).
2. **Develop and implement personnel policies on use and possession of alcohol or drugs.** This is perhaps the most important step in preventing and controlling substance abuse on the job. The policies should clearly state that drug use is prohibited, and it should outline actions to be taken. The policy should state the city's position on drug or alcohol use in terms of hiring and disciplinary actions. The policy should also explain the city's use of searches on city property and outline the city's right to demand urine samples for testing when reasonable suspicion exists.

3. **Communicate policy to employees.** Because positive test results may affect an employee's reputation or job status, due process issues are raised when public employees are tested for drugs and alcohol use. One of the factors courts will carefully assess is the adequacy of prior notice to the employees concerning the details of the testing program. Notice of drug testing reduces an employee's expectation of privacy and may help a department meet the test of reasonableness under the Fourth Amendment. In the case of *Capua v. City of Plainfield* (643 F.Supp. 1507, 1513 (D.N.J. 1986)), the court considered the department's surprise drug testing program a form of employee harassment and coercion because of a lack of written directives establishing standards and procedures for testing.
4. **Test only on reasonable suspicion (except for safety sensitive positions such as police and fire departments where one might prefer regular, mandatory, department-wide testing) based on observed behavior or other information such as: (1) an employee's work performance, (2) an employee's absenteeism record, and (3) employee's behavior (ie. sleeping, agitation, paranoia, depression, and personal appearance).** Suspicious behavior should be well documented. Courts have held that a reasonable suspicion standard is something less than probable cause, but more than a mere suspicion (*Capua v. City of Plainfield* and *Penny v. Kennedy*), and is the basis upon which a drug test can be justified. Therefore, in order to withstand court tests of reasonableness, department policies need to answer the questions: (1) What specific behaviors or deviations from expected performance standards indicate that an employee may be under the influence; and (2) How will these behaviors be documented? Specific incidents such as accidents, injuries, or negative changes in overall work performance may also justify ordering an employee to submit to a urine test.
5. **Train supervisory personnel on observational skills for detecting drug or alcohol use, confrontation skills involved in disciplining and counseling abusers, knowledge of the company disciplinary process, and legal aspects of disciplinary procedures and searches.** To successfully implement a drug testing program, departments need to be certain that all personnel who supervise the testing procedures thoroughly understand their responsibilities and are committed to the overall program objectives. Supervisory personnel should understand the rationale for the program and receive training on all relevant policies and procedures.
6. **Allow employees their due process rights.** In addition to Fourth Amendment search and seizure issues, employee drug testing programs must be consistent with the requirements of the Fourteenth Amendment to the U.S. Constitution, which entitles all persons to due process of law and equal protection of the law. Courts are consistent in observing the employee's right to a hearing with the concomitant rights of confrontation of one's accuser, subpoena or witnesses, and protection against self-incrimination. In *Shoemaker v. Handel*, 795 F.2d 1136, (3rd



Cir. 1986), one of the key due process points relied on by the court in approving the drug testing program was the employee's ability to request a hearing to challenge test results or any penalties.

7. **Have employees sign consent forms for searches. If they refuse, indicate on the form and have a witness sign acknowledging the refusal.** Providing employees with notice of drug testing programs and policies is essential for nonviolation of employees' Fourth Amendment rights. A consent form for searches may be one method of documenting notification of the policy and program. Consent forms also set forth procedures for confirming an initial positive test result; the consequences of a confirmed positive test result; the right to explain a confirmed positive test result and the appeal procedures available; and the consequences of refusing to undergo a drug and alcohol test.
8. **Treat any investigation with utmost confidentiality.** Test results should be furnished to internal employees on a need-to-know basis only. Invasion of privacy and defamation claims arise from careless communication of test and investigation results. Confidentiality should also be extended to employment records of employees involved in drug-use situations. (This might be somewhat difficult in light of Tennessee's open records law.) It is also suggested that if an employee is discharged for drug abuse, the reason for such termination should not be disclosed to prospective employers. All phases of the investigation should be well documented.
9. **Protect chain of custody of urine, blood, or breath samples.** The chain of custody of drug specimens in a urine testing program should be treated as carefully as physical evidence in a criminal investigation. The chain should be documented at each stage of the process. Another issue is whether the department preserves a sample for verification by the employee to promote a sense of fairness and enhanced reliability in the testing procedures.
10. **Adopt an Employee Assistance Program (EAP).** An employee assistance program is an employer provided program operated either in-house or by an outside contractor. Generally, EAPs are designed to accomplish two things: (1) to prevent problems that interfere with an employee's ability to perform his or her job and (2) to rehabilitate those employees who are experiencing problems that affect the employee's performance. While small programs may simply distribute brochures about outside resources, others offer comprehensive services that include referrals, short-term counseling, recruiting and in-service training, and counseling on finances and educational opportunities.

**APPENDIX 1**

**MODEL POLICY STATEMENT**

**SUBSTANCE ABUSE BY CITY EMPLOYEES  
AND  
APPLICANTS FOR CITY POSITIONS**



## APPENDIX 1

### MODEL POLICY STATEMENT

#### SUBSTANCE ABUSE BY CITY EMPLOYEES AND APPLICANTS FOR CITY POSITIONS

##### SECTION I -- PURPOSE OF DRUG TESTING PROGRAM - NOTICE

- A. The City of \_\_\_\_\_ has a legal responsibility and management obligation to ensure a safe work environment; as well as paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to perform their assigned duties. A requirement for employment must be an employee who is free from drug or alcohol dependence, illegal drug use, or drug/alcohol abuse.
- B. Liability could be found against the City and the employee if the City fails to ensure that employees can perform their duties without endangering themselves or the public.
- C. There is sufficient evidence to conclude that the use of illegal drugs/alcohol, drug/alcohol dependence and drug/alcohol abuse seriously impairs an employee's performance and general physical and mental health. The illegal possession and use of drugs, alcohol and/or narcotics by employees of the City is a crime in this jurisdiction and clearly unacceptable. Therefore, the City of \_\_\_\_\_ has adopted this written policy to ensure an employee's fitness for duty as a condition of employment; to ensure drug tests are ordered as the result of reasonable suspicion by supervisory personnel and based on observed behavior or work performance; and whereby employees know testing is a requirement of employment.

##### SECTION II -- GENERAL RULES

- A. City employees shall not take or be under the influence of any narcotics or dangerous substance unless prescribed by the employees' licensed physician. Employees who are required to take prescription medicine should notify their immediate supervisors of the medication prescribed and the nature of the illness or injury.
- B. City employees are prohibited from the use, possession and sale of drugs, alcohol or any other controlled substance on city property or in city vehicles.

- C. All property belonging to the City is subject to inspection at any time without notice as there is not expectation of privacy.
  - 1. Property includes, but is not limited to, vehicles, desks, containers, files, and storage lockers.
  - 2. Employees assigned lockers (that are locked by the employee) are also subject to inspection by the employee's supervisor after reasonable advance notice, (unless waived by the Chief Administrative Officer) and in the presence of the employee.
- D. City employees who have reason to believe another employee is illegally using drugs or narcotics, shall report the facts and circumstances immediately to the supervisor.
- E. Failure to comply with the intent or provisions of this general order may be used as grounds for disciplinary action.

### **SECTION III -- DRUGS TO BE TESTED FOR**

When drug and alcohol screening is required under the provisions of this policy, a urinalysis test will be given to detect the presence of the drug groups listed below. This list is not intended as an exhaustive inventory of every drug for which an employee can be tested. The selection of drugs subject to testing will be based upon known abuse in the community and the ability of each drug to affect job performance.

- A. Alcohol (Ethyl)
- B. Amphetamines (e.g. Speed)
- C. Barbiturates (e.g. Amobarbital, Butabarbital, Phenobarbital, Secobarbital)
- D. Cocaine
- E. Methaqualone (e.g. Quaalude)
- F. Opiates (e.g. Codeine, Heroin, Morphine, Hydromorphine, Hydrocodone)
- G. Phencyclidine (PCP)
- H. THC (Marijuana)

#### **SECTION IV -- PRIOR NOTICE OF TESTING POLICY**

The City shall provide written notice of its drug and alcohol testing policy to all employees and job applicants. The notice shall contain the following information:

- A. The need for drug and alcohol testing;
- B. The circumstances under which testing may be required;
- C. The procedures for confirming an initial positive drug test result;
- D. The consequences of a confirmed positive test result;
- E. The consequences of refusing to undergo a drug and alcohol test;
- F. The right to explain a positive test result and the appeal procedures available; and
- G. The availability of drug abuse counseling and referral services.

#### **SECTION V -- CONSENT**

Before a drug and alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those City officials with a need to know. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the City's drug testing policy and to indicate current or recent use of prescription or over-the-counter medication.

The consent form shall also set forth the following information:

- A. The procedure for confirming an initial positive test result;
- B. The consequences of a confirmed positive test result;
- C. The right to explain a confirmed positive test result and the appeal procedures available; and
- D. The consequences of refusing to undergo a drug and alcohol test.

#### **SECTION VI -- JOB APPLICANT TESTING: GENERAL STANDARD**

Applicants for all classes of employment with the city will be required to undergo a drug and alcohol test upon the offer of employment and prior to their final appointment.

## **SECTION VII – CURRENT EMPLOYEE TESTING: GENERAL STANDARD**

The City may require a current city employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during working hours. "Reasonable suspicion" means an articulate belief based on specific facts and reasonable inferences drawn from those facts, that an employee is under the influence of drugs or alcohol. Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

- A. A pattern of abnormal or erratic behavior;
- B. Information provided by a reliable and credible source;
- C. A work-related accident;
- D. Direct observation of drug or alcohol use; or
- E. Presence of the physical symptoms of drug or alcohol use (i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes).

Supervisors are required to detail in writing, the specific facts, symptoms, or observations which formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the appropriate department head or designated alternate.

## **SECTION VIII -- REFUSAL TO CONSENT: APPLICANT**

A job applicant who refuses to consent to a drug and alcohol test will be denied employment with the city.

## **SECTION IX -- REFUSAL TO CONSENT: EMPLOYEES**

An employee who refuses to consent to a drug and alcohol test when reasonable suspicion of drug or alcohol use has been identified, is subject to disciplinary action up to and including termination. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action.

## **SECTION X -- CONFIRMATION OF TEST RESULTS**

An employee or job applicant whose drug test yields a positive result shall be given a second test using a gas chromatography/mass spectrometry test. The second test shall use a portion of the same test sample withdrawn from the employee or applicant for use in the first test.

If the second test confirms the positive test result, the employee or applicant shall be notified of the results in writing by the appropriate department head or designated alternate. The letter of notification shall identify the particular substance found and its concentration level.

An employee or applicant whose second test confirms the original positive test results may, at the employee's or applicant's own expense, have a third test conducted on the same sample at a laboratory selected by the City.

#### **SECTION XI -- CONSEQUENCES OF A CONFIRMING POSITIVE TEST RESULT: JOB APPLICANTS**

Job applicants will be denied employment with the City if their initial positive test results have been confirmed. Applicants shall be informed in writing if they are rejected on the basis of confirmed positive drug test results.

#### **SECTION XII -- CONSEQUENCES OF A CONFIRMING POSITIVE TEST RESULT: CURRENT EMPLOYEES**

If a current employee's positive test result has been confirmed, the employee is subject to disciplinary action up to and including termination. Factors to be considered in determining the appropriate disciplinary response include the employee's work history, length of employment, current job performance, and existence of past disciplinary actions. No disciplinary action may be taken against employees who voluntarily identify themselves as drug users, 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.

#### **SECTION XIII -- THE RIGHT TO A HEARING**

If an employee's positive test results have been confirmed, the employee is entitled to a hearing before any disciplinary action may be taken by the City. The employee must make a written request for a hearing to the appropriate department head or designated alternate within \_\_\_\_\_ days of receipt by the employee of the confirmation test results. Employees may be represented by legal counsel, present evidence and witnesses on their behalf, and confront and cross-examine the evidence and witnesses used against them.

No adverse personnel action may be taken against an employee based on a confirmed positive test result unless the hearing officer finds by a preponderance of the evidence that:

- A. The employee's supervisor had reasonable suspicion to believe that the employee was under the influence of drugs or alcohol while on the job; and
- B. The employee's drug test results are accurate.



Within \_\_\_\_ days following the close of the hearings, the hearing officer shall issue a written decision and a brief summary of the facts and evidence supporting that decision.

#### **SECTION XIV -- MANDATORY EMPLOYEE ASSISTANCE PROGRAM REFERRAL**

Upon the first confirmed determination that an employee is under the influence of drugs or alcohol, the City shall refer the employee to an Employee Assistance Program (EAP) for assessment, counseling, and rehabilitation. Participation in an EAP is voluntary and no disciplinary action may be taken against an employee for failure to begin or complete an EAP program. Disciplinary action based on a violation of the City's drug and alcohol policy is not automatically suspended by an employee's participation in an EAP and may be imposed when warranted.

#### **SECTION XV – CONFIDENTIALITY OF TEST RESULTS**

All information from an employee's or applicant's drug and alcohol test is confidential and only those individuals with a need to know are to be informed of test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released until the results are confirmed. The records of unconfirmed positive test results and negative test results shall be destroyed by the testing laboratory.

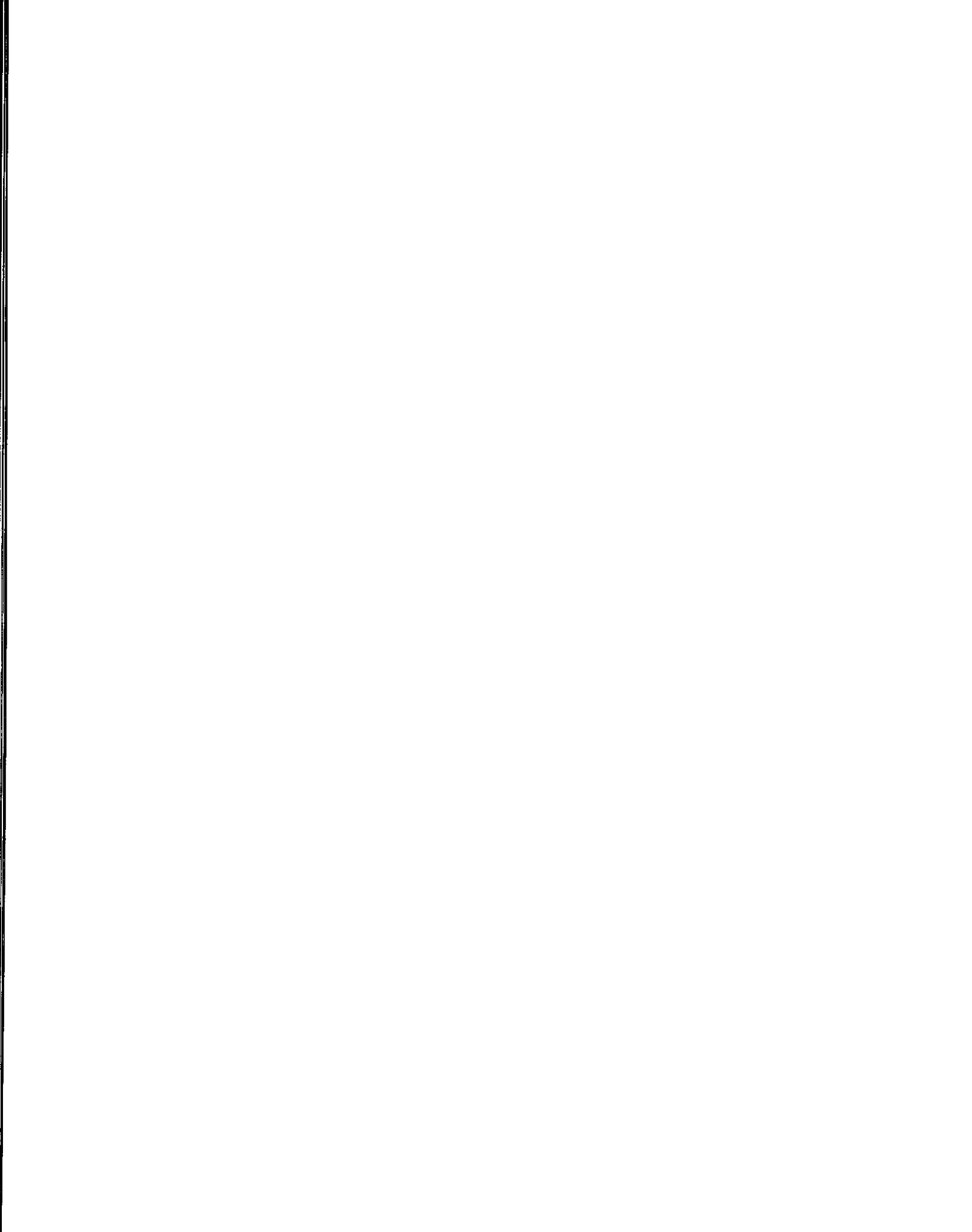
#### **SECTION XVI – LABORATORY TESTING REQUIREMENTS**

All drug and alcohol testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the City. To be considered as a testing site, a medical facility or laboratory must submit in writing, a description of the procedures that will be used to maintain test samples. This submission should be maintained by the City's \_\_\_\_\_. Factors to be considered by the City in selecting a testing facility include:

- A. Testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;
- B. Methods of analysis which ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results;
- C. Chain-of-Custody procedures which ensure proper identification, labeling, and handling of test samples; and
- D. Retention and storage procedures which ensure reliable results on confirmatory test of original samples.

**APPENDIX 2**

**DRUG/ALCOHOL SCREENING CONSENT FORM**



## APPENDIX 2

### DRUG/ALCOHOL SCREENING CONSENT FORM

#### PART I

I, \_\_\_\_\_, hereby acknowledge that the City has informed me of its drug screening policy and its desire to maintain a safe and productive workplace. I do hereby consent to and authorize the drug screening and the release of the results to those City officials with a need to know.

I understand that, as per the policy, job applicants who refuse to consent to a drug and alcohol test, will be denied employment with the city. Employees who refuse to consent to a drug and alcohol test when reasonable suspicion of drug or alcohol use has been identified, are subject to disciplinary action up to and including termination.

-----  
Signature

Date

---

#### PART II

Are you presently taking any medication (within 30 days)? \_\_\_\_\_ yes \_\_\_\_\_ no

If yes, please list:

I am not taking any medication at this time. \_\_\_\_\_ yes \_\_\_\_\_ no

-----  
Signature

Date

**PART III**

I, \_\_\_\_\_, have also been informed that any employee or job applicant whose drug test yields a positive result shall be given a second test. The second test shall use a portion of the same test sample withdrawn for use in the first test. If the second test confirms the positive test result, I understand that I will be notified of the results, the particular substances found, and their concentration, in writing, by the appropriate department head or designated alternate. If my second test confirms the original positive test results I may, at my own expense, have a third test conducted on the same sample at a laboratory selected by the City.

-----  
Signature

Date

**PART IV**

I, \_\_\_\_\_, (**Job Applicants Only**) have been informed by the City that I will be denied employment if the initial positive test results are confirmed.

-----  
Signature

Date

I, \_\_\_\_\_, (**Current Employee Only**) have been informed and understand that if a positive test result is confirmed, I may be subject to disciplinary action up to and including termination.

I also have been informed and understand that if my test results are confirmed, I am entitled to a hearing before any disciplinary action may be taken by the City. I must make a written request for a hearing to the appropriate department head or designated alternate within \_\_\_ days of receipt by the employee of the confirmation test results. I understand that I may be represented by legal counsel, present evidence and witnesses on my behalf, and confront and cross-examine the evidence and witnesses used against me. Within \_\_\_\_\_ days following the close of the hearings, the hearing officer shall issue a written decision and a brief summary of the facts and evidence supporting that decision.

-----  
Signature

Date