



# **DRUG-FREE WORKPLACE POLICY**

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**CITY OF CHANDLER  
DRUG-FREE WORKPLACE POLICY**

**I. INTRODUCTION**

It is the policy of the City to:

1. Create a workplace environment free from the adverse effects of alcohol and substance abuse;
2. Ensure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner;
3. Prohibit the unlawful manufacture, possession, distribution, dispensing, and use of alcohol, drugs, and other intoxicants in the workplace; and
4. Encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affect their ability to satisfactorily perform their assigned duties.

Compliance with the Policy is a condition of continued employment for all employees. It is the employee's responsibility to read, understand, and comply with its requirements. Employees must ask questions if any part of the Policy, including the associated Testing Procedures, is not clearly understood. The failure to read or understand any part of this Policy does not relieve an employee of the requirement to comply with it.

**II. DEFINITIONS**

The following definitions apply to this Policy and the *City of Chandler Drug-Free Workplace Drug & Alcohol Testing Procedures*.

**Adulterated Specimen:** Contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

**Alcohol or Alcoholic Beverage:** The intoxicating agent in beverage alcohol, ethyl alcohol or any other low molecular-weight alcohols, including methyl or isopropyl alcohol. Alcoholic beverage shall have the same meaning as "spirituous liquor" as that term is defined in Arizona Revised Statutes § 4-101(32).

**Alcohol Use:** The drinking or swallowing of any beverage, liquid mixture, or preparation, including any medication containing alcohol.

<b>Breath Alcohol Technician (BAT):</b>	A person who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).
<b>City Premises (also Workplace):</b>	All buildings, offices, facilities, grounds, parking lots, lockers, places, and vehicles owned, leased, or managed by the City or any site where the City is conducting business and/or City employees, temporary employees, interns, and/or volunteers are performing official duties.
<b>Commercial Driver's License (CDL):</b>	A special license required of drivers who drive Commercial Motor Vehicles which meet the following criteria: <ul style="list-style-type: none"> <li>• Meets or exceeds 26,001 lbs. gross vehicle weight; or</li> <li>• Transports 16 or more passengers, including the driver; or</li> <li>• Transports hazardous materials as determined by the Hazardous Materials Act, 49 USC 5101, and are required to placard the vehicle under the Hazardous Materials Regulations, 49 CFR chapter I, subchapter.</li> </ul>
<b>Conviction:</b>	A finding of guilty (including a plea of guilty or nolo contendere), or imposition of sentence, or both, by any judicial body charged with the responsibility of determining violations of the federal or state criminal drug laws, alcohol beverage control laws, or laws that govern driving while intoxicated.
<b>Criminal Drug Law:</b>	Any federal, state, or local criminal law governing the manufacture, distribution, dispensation, possession, or use of any controlled drug.
<b>Designated Employer Representative (DER):</b>	An employee identified by the City as authorized to receive communications and test results from service agents and who is authorized to take immediate action(s) to remove employees from safety-sensitive duties and make required decisions in the testing and evaluation processes.
<b>Dilute Specimen:</b>	A specimen with creatinine and/or specific gravity values that are lower than expected for human urine.
<b>DOT Procedures:</b>	Procedures for the Transportation Workplace Drug and Alcohol Testing Program published by the Office of the Secretary of Transportation in 49 C.F.R. Part 40.
<b>Drug:</b>	A controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act, 21 U.S.C. 812 (further defined in 21 C.F.R. §§ 1308.11 – 1308.15) and schedules I through V of the Arizona Uniform Controlled Substances Act, A.R.S. §§ 36-2512 – 36-2516.

<b>Drug Recognition Expert (DRE):</b>	A police officer trained to recognize impairment in individuals under the influence of controlled substances other than, or in addition to, alcohol.
<b>Employee Assistance Program (EAP):</b>	A confidential assessment, referral, and short-term problem-solving service available to eligible employees and family members. Enrollment in the EAP is automatic for individuals eligible for employee benefits.
<b>Evidential Breath Testing device (EBT):</b>	A device approved by the National Highway Traffic Safety Administration ("NHTSA") for the evidential testing of breath at the 0.02 and 0.04 alcohol concentrations, placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" ("CPL"), and identified on the CPL as conforming with the model specifications available from NHTSA's Traffic Safety Program.
<b>Illegal Use of Drugs:</b>	The use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act, 21 U.S.C. 801 <i>et seq.</i> and/or the Arizona Uniform Controlled Substances Act, A.R.S. 38-2501 <i>et seq.</i> Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs but does not include the use of a drug taken as prescribed under the supervision of a licensed health care professional, or other uses authorized by the federal or Arizona Controlled Substances Acts or other provisions of Federal or Arizona law.
<b>Impaired:</b>	To function poorly or inadequately cognitively and/or physically.
<b>Impairment, (Indicia of):</b>	Physical symptoms and behaviors indicating that the individual may be under the influence of drugs, alcohol, or other intoxicants that diminish the individual's ability to safely and effectively perform job duties. These symptoms and behaviors may include, but are not limited to, the employee's speech, walking, standing, physical dexterity, agility, coordination, actions, movement, demeanor, appearance, clothing, odor, irrational or unusual behavior, negligence or carelessness in operating equipment or machinery.
<b>Intoxicant:</b>	Any substance other than alcohol or drugs, as defined herein, that may be taken into the body and may impair mental functioning and/or physical performance. These include, but are not limited to, synthetic and "designer drugs" such as synthetic marijuana, bath salts, MDMA, 2C-E, and 251-NBOMe.

<b>Medical Marijuana:</b>	Marijuana in any form used or possessed in strict compliance with A.R.S. § 36-2801 <i>et seq.</i> (the Arizona Medical Marijuana Act) and all associated regulations.
<b>Medical Review Officer (MRO):</b>	A licensed physician responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.
<b>Positive Drug Test:</b>	Any urine that is chemically tested (screened and confirmed), shows the presence of controlled substances, and is verified by the MRO. For individuals in Safety-Sensitive - CDL classifications, a positive test will equal or exceed federal standards for alcohol and/or drugs. For non-DOT-regulated individuals, a positive test will reflect the presence of drugs or alcohol that cannot be substantiated by a physician's prescription.
<b>Pre- Employment:</b>	Before initially commencing work for the City.
<b>Pre-Placement:</b>	Before an employee is promoted, demoted, transferred, detailed, placed on special assignment, or otherwise into a classification that is designated Safety-Sensitive - CDL, Safety-Sensitive - Public Safety, or Safety-Sensitive – Elevated Risk.
<b>Reasonable Suspicion:</b>	<p>The belief that the employee has violated the alcohol or drug prohibitions of this Policy based on specific objective facts and reasonable inferences when any of the following conditions exist:</p> <ul style="list-style-type: none"> <li>• Direct observation of drug or alcohol use and/or indicia of impairment.</li> <li>• A pattern of abnormal conduct or erratic behavior. (non-DOT)</li> <li>• Arrest or conviction for a drug-related offense or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking. (non-DOT)</li> <li>• Information either provided by reliable and credible sources or independently corroborated (non-DOT).</li> <li>• Newly discovered evidence that the employee has tampered with a previous drug test (non-DOT).</li> </ul>
<b>Refusal/Refuse to Test:</b>	To obstruct the collection or testing process as described in Section VIII.H of this Policy.

**Safety-Sensitive Duties:** Duties performed by individuals in Safety-Sensitive - CDL classifications, Safety-Sensitive – Public Safety classifications, and Safety-Sensitive – Elevated Risk classifications which if improperly performed may pose a significant risk to life, the environment, or public health and safety. These include, but are not limited to, driving commercial motor vehicles, performing public safety activities, using and handling firearms, working with hazardous materials, performing operational duties at the water and wastewater treatment plants, duties that include installation, maintenance and repair of mechanical and automotive equipment.

**Safety-Sensitive-CDL Classifications:** Classifications in which employees are required to drive commercial motor vehicles that require a commercial driver's license (CDL) and that are subject to the drug and alcohol testing rules of the Federal Motor Carrier Safety Administration (FMCSA) of the U.S. Department of Transportation (DOT) in 49 C.F.R. Part 40.

**Safety-Sensitive - Elevated Risk Classifications:** Classifications for which employees' performance of their required duties presents a significantly elevated risk to the safety and security of the employees themselves, their coworkers, and/or the general public if performed improperly due to impairment by the use of alcohol, drugs, or other intoxicants.

**Safety-Sensitive – Public Safety classifications:** All sworn classifications in the Police Department, all sworn classifications in the Fire Department, and civilian classifications in the Police and Fire Departments identified as presenting significantly elevated safety and/or security risks to themselves, other employees, and the general public if essential job functions are performed while impaired.

**Substance Abuse Professional (SAP):** A licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders, qualified under 49 CFR Part 40, as amended. The SAP evaluates employees who have violated a DOT drug and alcohol regulation and/or this Policy and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

**Under the influence of alcohol:**

Having an alcohol concentration equal to or greater than .02, or actions, appearance, speech or bodily odors that reasonably cause a supervisor to conclude that an employee is impaired because of alcohol use.

**Under the influence of drugs:**

Having a positive verified test result for illegal drug use per this Policy. It includes (i) the misuse of legal prescription drugs when there is not a valid prescription from a physician for the lawful use of a drug in the course of medical treatment, (ii) the misuse of over-the counter (OTC) drugs in a manner that affects mental and/or physical abilities and diminishes the individual's ability to safely and effectively perform job duties and (iii) the use of recreational marijuana which is a prohibited drug in Schedule I of the Controlled Substances Act and remains a violation of City policy.

**Verified Test:**

A drug test or validity testing result from a federally certified laboratory that has undergone review and final determination by the MRO.

**Workplace:**

See definition of City Premises.

### III. APPLICABILITY

The Drug-Free Workplace Policy applies to all full- and part-time regular, probationary, and temporary employees, interns, volunteers, and any individual who has been given a conditional offer of employment by the City. The Policy applies whenever an individual is working for or representing the City, in the workplace, and at City-sponsored events, including when an individual is on call, on standby, is called out, or is on breaks and lunch breaks.

**Fire Department:** The Policy will not apply to the handling of drugs or alcohol that occur during the course and scope of the position of EMT and/or Paramedic Firefighter. The Arizona Department of Health Services certifies the requirements and the program is supervised by a Medical Director. Drugs are monitored and dispensed through an electronic system with strict reporting requirements.

**Police Department:** The Policy will not apply to the handling of drugs or alcohol required as part of a Police employee's job functions so long as such handling is conducted and documented pursuant to the procedures of the department outlined in General Orders B-06, B-12, and B-35 and may be noted in others. The Police Department has additional regulations and procedures relating to substance abuse and random drug testing. Employees of the Police Department are subject to the terms of this Policy and the department-specific procedures and requirements set forth in the General Orders.

Individuals who drive commercial motor vehicles that require a commercial driver's license (CDL) are also covered by the drug and alcohol testing regulations of the U.S. Department of Transportation (DOT). In the case of a conflict between a requirement of this Policy, including the *Drug-Free Workplace Drug & Alcohol Testing Procedures*, and a mandatory requirement under the DOT Procedures or Federal Motor Carrier Safety Administration (FMCSA) drug and alcohol testing regulations, the federal requirements shall govern for employees in Safety-Sensitive - CDL classifications. In all other situations, the requirements of this Policy shall control. The DOT Procedures are found at 49 C.F.R. Part 40. The FMCSA Controlled Substances and Alcohol Use and Testing regulations are at 49 C.F.R. Part 382.

### IV. FEDERAL DRUG-FREE WORKPLACE REQUIREMENTS

The federal Drug-Free Workplace Act applies to the City, as a recipient of federal grant funding, and requires any employee convicted of any drug or alcohol related workplace crimes to notify the City within five days of the conviction. The City must notify the granting or contracting federal agency within 10 days of receiving notice of a conviction. The City is required to impose sanctions (up to and including dismissal from City employment) against convicted employees within 30 days or require them to participate in a drug abuse assistance or rehabilitation program approved by an appropriate law enforcement or health agency.

The requirements of the federal Drug-Free Workplace Act are in addition to the requirements set forth under this Policy. Where the City policy imposes stricter requirements than the Act, the City's requirements will apply.

## V. PROHIBITIONS

- A. Employees shall not report for duty or remain on duty while under the influence of any alcohol or drugs, including prescription and OTC medications, marijuana (medical or recreational), or other intoxicants which could impair work performance, alertness, coordination or response, or affect the safety of others on the job. Employees must disclose their use of any drug or other substance that may impair job performance or place themselves or anyone else at risk in accordance with Section VI of this Policy
- B. Employees shall not unlawfully use, possess, distribute, dispense or manufacture alcohol, drugs (including marijuana for medical or recreational use), or other intoxicants while at work, in the workplace, on City premises, representing the City, operating a City vehicle or a personal vehicle on City business, in City uniform, or performing any City-related activity. An employee who violates this provision will be subject to disciplinary action, up to and including dismissal. At the discretion of the City, the employee may be required to participate in a substance abuse rehabilitation and treatment program in addition to disciplinary action. Law enforcement will be notified, as appropriate, where criminal activity is suspected. The "unlawful use of drugs" includes the use of any illegal drug, unauthorized use or misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. When prescription drugs are used at work the medication must be kept in its original container.
- C. Employees shall not consume alcohol, drugs, or other intoxicants while performing job functions or while on-call or stand-by to perform job functions. This includes off-site lunch periods or breaks when an employee is scheduled to return to work. Employees who are designated as on-call or stand-by are expected to be ready to work at any time during their assignment. Accordingly, employees who are "on-call" or on stand-by must refrain from consuming alcohol, drugs (including medical and recreational marijuana), or other intoxicants, including prescribed or over-the-counter medications that would interfere with their ability to respond safely as required. If an on-call employee or off-duty employee is requested to work and has consumed alcohol or drugs, the employee must disclose the use of the alcohol or drugs at the time that he or she is called to report for duty.
- D. Employees in a Safety-Sensitive - CDL classification shall not report for duty or remain on duty any time there is a quantifiable presence of alcohol or a prohibited drug in the body above the minimum thresholds defined in 49 C.F.R. Part 40, as amended.
- E. Employees shall not consume alcohol within four (4) hours before reporting to work. An employee shall not report for duty or remain on duty while having a blood alcohol concentration of .02 or greater in his/ her system regardless of when the alcohol was consumed.

- F. Employees shall not consume alcohol for eight (8) hours following involvement in an accident or until the employee submits to any required post-accident drug and/or alcohol test, whichever occurs first.
- G. Medical and recreational marijuana use is a disqualifying event for commercial motor vehicle operators. Employees in Safety-Sensitive - CDL classifications who are required to hold a Commercial Driver's License in connection with their City employment are prohibited from using medical and recreational marijuana at any time.
- H. Employees in sworn classifications in the Police Department are prohibited from using medical and recreational marijuana at any time. Sworn and confidential employees of the public safety departments (Police and Fire) may be subject to additional Department-specific policies and rules regarding the use of medical marijuana.
- I. Employees on City-authorized travel (including an employee's use at any time of a city-owned vehicle or a rented vehicle if rented for the purpose of conducting City business) shall not drive under the influence of alcohol, drugs, or other intoxicants.
- J. Employees shall not refuse to test or fail to cooperate in any way with a drug and/or alcohol test or any other evaluation required under this Policy. Employees shall not interfere with, alter, substitute, adulterate, dilute, or in any way obstruct, or attempt to affect, the outcome of the drug and/or alcohol testing procedure.

## **VI. NOTIFICATION REQUIREMENTS**

### **A. Mandatory Notifications**

1. Any employee arrested or charged with a drug- or alcohol-related incident must immediately notify his/her supervisor, the department director, and the Human Resources Director of the arrest/charge if the incident occurs:
  - a. During scheduled working hours;
  - b. While operating a City-owned vehicle on City or personal business; or
  - c. While operating a personal or rented vehicle on City business.
2. Employees in Safety-Sensitive - CDL classifications, Safety-Sensitive - Public Safety classifications, Safety-Sensitive - Elevated Risk classifications, and classifications for which a valid driver's license is required must notify their supervisor, cost-center manager, or department director of any charge, arrest, and/or conviction for driving over the legal limit for alcohol or driving under the influence of alcohol, drugs, or other intoxicants immediately or no later than the next work day or within three calendar days of the arrest, charge, and/or conviction, whichever is sooner. Department Directors shall immediately notify the Human Resources Director upon disclosure by the employee.

3. Employees are required to notify their supervisor, cost-center manager, or department director of any arrest, charge, and/or conviction for a violation of a criminal drug law, including a violation occurring in the workplace, no later than the next work day or within three calendar days of the arrest, charge, and/or conviction, whichever is sooner. Department Directors shall immediately notify the Human Resources Director upon disclosure by the employee.
4. The use of medically prescribed drugs as directed by a physician does not violate this Policy. When taking drugs that could compromise the safety of the employee, co-workers, or the public, including any prescription or non-prescription/OTC medication that identifies potential effects on mental functioning, motor skills, or judgment as a potential side effect, employees must notify their supervisor and the Human Resources Director, or designee, before beginning work. An employee is not required to disclose the underlying medical condition for which the employee is being treated. The supervisor, in consultation with the Human Resources Director, or designee, shall determine an appropriate course of action to avoid unsafe workplace conditions, which may include a temporary change in duties, use of approved leave, or other resolution.
  - a. The City may consult a qualified physician selected by the City to address questions about an employee's ability to perform duties while using prescribed and/or OTC medications.
  - b. The employee will be required to provide documentation, using the Drug Disclosure Form located on the Human Resources page of ChanWeb, from his/her medical provider confirming that given the nature of the employee's job duties, current condition, and possible side effects of the prescribed medication, the medication will have no adverse influence on the employee's performance of job duties.
  - c. The employee may be required to submit to a medical evaluation by a City-selected physician if necessary to resolve questions concerning the employee's use of medication and its effect on the employee's fitness and ability to perform essential functions of the job.
  - d. For employees in Safety-Sensitive - CDL classifications, Safety-Sensitive - Public Safety classifications, and Safety Sensitive - Elevated Risk classifications, the physician may be asked to certify that given the safety-sensitive nature of the employee's job duties, his/her medical history, current condition, and possible side effects of the prescribed drug(s), it is the physician's professional opinion that the drug(s) will have no adverse influence on the employee's performance of his/her safety-sensitive job duties.

## **B. Voluntary Disclosure**

1. An employee who voluntarily discloses to the Human Resources Director or a supervisor in the employee's chain of command that he or she has an alcohol or substance abuse problem, will not be considered to be in violation of this Policy if such disclosure is made before any of the procedures associated with drug and/or alcohol testing or disciplinary action have commenced.
2. Voluntary disclosure does not relieve an employee of the responsibility for satisfactory job performance, allow the employee to avoid testing, or preclude disciplinary action against an employee who fails a requested test or refuses to test.
3. Regular employees who voluntarily notify their supervisors or the Human Resources Director of having a substance abuse problem before being notified of a required drug and/or alcohol test, and/or before the commencement of a disciplinary investigation relating to an incident involving alcohol or drug use; and who are referred to the City's EAP or another rehabilitation/treatment program, will not be subject to disciplinary action as a consequence of their voluntary disclosure. However, the voluntary disclosure will not reduce the normal performance expectations or standards for performance of the employee's job, nor will it replace the normal disciplinary procedures for unsatisfactory job performance or conduct.
4. A self-disclosing employee must sign an agreement with the City agreeing:
  - a. To participate in and successfully complete an EAP or other licensed substance abuse rehabilitation and treatment program as determined and/or approved by the City;
  - b. To submit to return-to-duty and unannounced follow-up drug and/or alcohol testing for a minimum of 36 months (the specific amount of time to be determined and may be extended by the City and memorialized in the Agreement);
  - c. To comply with all additional requirements and conditions related to the employee's treatment/rehabilitation program as recommended by the EAP or other approved substance abuse professional or medical provider;
  - d. That if the employee refuses to test, tests positive for the illegal use of drugs, has an alcohol concentration of .02 or greater, does not comply or withdraws from the EAP and/or other prescribed treatment/rehabilitation program, violates the terms of Agreement, the employee will be dismissed from City employment.

The *Voluntary Disclosure Form* template is provided as Appendix A.

5. Treatment for alcoholism and other drug use disorders may be covered by the employee's health benefit plan. It is the employee's responsibility to verify the benefits and cost associated with treatment as there is no guarantee of coverage. The employee has ultimate and sole financial responsibility for any recommended or mandated treatment.

## **VII. OFF-DUTY CONDUCT**

- A. Employees have a responsibility to the community to act responsibly and safely while off duty. Employees who drive while over the legal alcohol limit or drive while under the influence of alcohol, drugs, or other intoxicants engage in conduct that may bring discredit to the City service and may be subject to disciplinary action up to and including dismissal.
- B. Any employee in a classification for which a valid driver's license is required, as reflected in the written job description, who while off-duty is arrested and/or cited for driving over the legal alcohol limit or driving under the influence of alcohol, drugs, or other intoxicants will be subject to disciplinary action up to and including dismissal.
- C. Employees without a valid driver's license are prohibited from driving for work in any capacity while the employee's driver's license is suspended, revoked, or otherwise invalid. The City is not required to accommodate an employee's inability to drive when driving is a requirement of the employee's job. The Department Director, in consultation with the Human Resources Director, will review each situation on a case-by-case basis taking the needs of the City and best interests of the work group into consideration. If the Department is unable to accommodate the employee's inability to drive in his/her current classification, and is unable or declines to place the employee in an appropriate non-driving position on a temporary basis, the employee may use accrued leave or unpaid leave to take a leave of absence for a maximum of 90 days. If the employee does not have a valid driver's license at the conclusion of the leave, the employment will be dismissed from City employment.
- D. An employee who is required to have a valid driver's license for work and who is subject to the suspension of his or her driver's license for a period of six (6) months or longer will be dismissed from City employment.
- E. The City reserves the right to take disciplinary action, up to and including dismissal from employment, when the City, in its sole discretion, determines that an employee's off-duty conduct involving drugs and/or alcohol: (i) is damaging to the City's reputation or business, (ii) is inconsistent with the employee's duties, or (iii) negatively affects or impairs the employee's ability to perform his/her job.

## VIII. DRUG AND ALCOHOL TESTING

- A. As a condition of employment by the City, employees may be subject to drug and/or alcohol testing. These tests include:
1. Pre-employment/pre-placement testing;
  2. Reasonable suspicion testing;
  3. Random testing;
  4. Post-accident testing;
  5. Return to duty testing; and
  6. Follow-up testing
- B. All drug and/or alcohol testing will be conducted under the direction of the Human Resources Director or designee in accordance with the *Drug-Free Workplace Drug & Alcohol Testing Procedures*.
- C. **Pre-Employment Testing.** Only individuals selected for placement into classifications that require the incumbent to hold a commercial driver's license (Safety-Sensitive - CDL classifications) or identified by the City as having elevated safety and/or security risks to the employees and the public (Safety-Sensitive - Public Safety classifications and Safety-Sensitive - Elevated Risk classifications) will be subject to pre-employment/pre-placement testing. A list of Safety-Sensitive - CDL classifications, Safety-Sensitive - Public Safety classifications, and Safety-Sensitive Elevated Safety Risk classifications is maintained in Human Resources.
- D. **Reasonable Suspicion Testing.** If reasonable suspicion of impairment exists, employees will be required to undergo drug and/or alcohol testing in accordance with Section V.B. of the *Drug-Free Workplace Drug & Alcohol Testing Procedures*.
- E. **Post-Accident Testing.** An employee involved in an on-the-job accident while operating a vehicle or a piece of power equipment will be required to undergo drug and/or alcohol testing in accordance with Section V.D. of the *Drug-Free Workplace Drug & Alcohol Testing Procedures*.
- F. The City will pay for any drug and/or alcohol test that it requests or requires that is conducted at the certified lab designated by the City. Any employee who disputes the results of a positive verified test may, at the employee's expense, request a retesting of the original specimen. A request for retesting must be made by the employee to the Medical Review Officer (MRO) within 72 hours of the time the employee is initially notified of the positive drug test. Any requests to the MRO made after 72 hours of notice of the initial verified test result will be accepted only if the delay was due to documentable facts that were beyond the control of the employee. All costs for such retesting shall be paid by the employee after testing is complete, unless the second test invalidates the original test. The employee shall provide written authorization for the City to deduct the cost of the retest from the employee's paycheck.

The employee must use his/her own accrued leave for any additional time off work attributed to the retesting of a specimen or any other additional processing performed at the employee's request. If the retesting does not return a positive result, the City may retest the original specimen at a SAMHSA-certified laboratory. The result of the third test will be final and conclusive. If the final result is "negative," any costs paid by the employee will be reimbursed and any leave assessed to the employee for this purpose will be refunded.

- G. All information received by the City relating to the testing process is considered confidential and access to the information is limited to those who have a legitimate need to know in accordance with federal and state laws and City policies and procedures.
- H. An employee's refusal to cooperate immediately when required to submit to drug and/or alcohol testing in accordance with this Policy constitutes insubordination. An employee who refuses to test or fails to cooperate with any associated evaluation or procedure will be dismissed from City employment or, in the case of pre-employment testing, shall have any conditional offer of employment rescinded. For purposes of this Policy, it will be considered a refusal to test if the employee:
  - 1. Fails to report to the collection facility within a reasonable amount of time, as determined by the Human Resources Director, after being directed to report;
  - 2. Fails to remain at the testing site until the testing process is completed;
  - 3. Fails to provide a breath or urine specimen for any test required by City policy or federal rule;
  - 4. Fails to provide a sufficient urine or breath sample when directed without a valid medical reason for the failure.
  - 5. Adulterates, dilutes, or substitutes a specimen;
  - 6. Fails to permit an observed or monitored collection when required;
  - 7. Fails to cooperate with any part of the testing process (e.g., engages in obstructive or confrontational behavior, refuses to empty pockets when directed, etc.);
  - 8. Fails to sign any required forms associated with the testing process;
  - 9. Fails to take a second test when required;
  - 10. Fails to undergo a medical examination or evaluation when required;
  - 11. Leaves the scene of an accident without justifiable explanation prior to submitting to an drug and/or alcohol test;
  - 12. Sends an imposter to the collection site in his/her place;
  - 13. Fails to consent to and/or participate in a preliminary evaluation by a Drug Recognition Expert (DRE); or
  - 14. Engages in any other type of conduct that obstructs the testing process.
- I. For employees in Safety-Sensitive - CDL classifications, the refusal to test is treated as a positive verified test under the DOT Procedures.

## **IX. ENFORCEMENT & DISCIPLINARY ACTION**

- A. Employees at all levels of the organization are responsible for ensuring compliance with this Policy. Directors, managers and supervisors will be held strictly accountable for both the application of the Policy and the consistency of its enforcement.
- B. Except as otherwise expressly provided in this Policy, any employee who violates the Policy will be subject to disciplinary action up to and including dismissal from City employment. Law enforcement will be notified, as appropriate, where criminal activity is suspected.
- C. Any employee who fails to report the use of prescription and/or OTC medications that have the potential to impair the employee's ability to safely perform duties, as required under Section VI.A.4 of this Policy, will be subject to disciplinary action up to and including dismissal.
- D. Except as otherwise provided in the Policy, an employee who tests positive for the use of alcohol (.04 BAC or greater) or the illegal use of drugs, as defined under this Policy, will be subject to disciplinary action up to and including dismissal.
- E. Any employee in a Safety-Sensitive - CDL classification, Safety-Sensitive - Public Safety classification, or Safety-Sensitive - Elevated Risk classification who tests positive for the use of alcohol (.04 BAC or greater) or the illegal use of drugs, as defined under this Policy, will be dismissed from City employment. For employees in Safety-Sensitive - CDL classifications and sworn classifications in the Police Department, the illegal use of drugs includes the use of marijuana for recreational or medical purposes with a valid medical marijuana card.
- F. Any initial probationary employee, temporary employee, or seasonal employee who tests positive for the use of alcohol (.04 BAC or greater) or the illegal use of drugs, as defined under this Policy, will be dismissed from City employment.
- G. Any employee who is determined to be under the influence of alcohol, drugs, or other intoxicants while driving a City vehicle while on- or off-duty will be dismissed from City employment.
- H. Any employee who is involved in an accident while on duty which involves injury to any person, including the employee, and tests positive for the use of alcohol (.02 BAC or greater) and/or the illegal use of drugs will be dismissed from City employment.
- I. Any employee who commits a drug-related felony while on- or off-duty will be dismissed from City employment.

- J. Any employee who drives a vehicle in the course of City employment while the employee has an invalid driver's license due to suspension, revocation, or any other reason related to drug or alcohol use will be dismissed from City employment.
- K. An employee who tests positive for alcohol at a .02 to .039 level under random, post-accident or reasonable suspicion testing will be immediately removed from his or her job duties until the start of the next regularly scheduled duty, but not less than 24 hours after the test. The employee may use accrued vacation leave or compensatory time but may not use sick leave for this time.

If it is the employee's first violation of this Policy, the employee will receive a three-day unpaid disciplinary suspension. The employee may be required to agree to a *Return to Work/ Last Chance Agreement* at the Department Director's discretion. A subsequent positive drug and/or alcohol (.02 BAC or greater) test within 36 months will result in dismissal from City employment.

- L. Except as otherwise provided under E, above, an employee's positive test for marijuana components or metabolites, alone, resulting from the legal use of medical marijuana with a valid medical marijuana card, will not result in dismissal unless marijuana was used or possessed in the workplace or during work hours or the employee was impaired while on duty. An employee's use of Cannabidiol/CBD will not be considered a verifiable defense for a positive test for THC. Any test that returns a positive result for THC will be treated as a positive test for marijuana. Marijuana is a prohibited drug in Schedule I of the Controlled Substances Act and its recreational use remains a violation of City policy.
- M. An employee who refuses to test, as that term is defined in this Policy, shall be immediately removed from all safety-sensitive duties and will be dismissed from City employment.
- N. Interns, volunteers, and independent contractors found to be in violation of this Policy shall be immediately removed from the City workplace and will be dismissed from City service.
- O. The City will rescind any conditional offer of employment if an individual tests positive for alcohol or the illegal use of drugs in the pre-employment testing process. Marijuana is a prohibited drug in Schedule I of the Controlled Substances Act and its recreational use remains a violation of City policy. The applicant may reapply after one year and must successfully pass a pre-employment drug and/or alcohol test.
- P. Except as otherwise provided herein, an employee who tests positive for drugs and/or alcohol and is not dismissed from City service as a result shall serve an unpaid disciplinary suspension of at least five (5) work days or greater as determined by the *Return to Work/Last Chance Agreement*.

- Q. If the City concludes there are significant and compelling mitigating factors that warrant deviation from the disciplinary sanction of dismissal, an employee may be offered a Return to Work/Last Chance Agreement.

The decision to offer a *Return to Work/Last Chance Agreement* in lieu of dismissal will be made by the Department Director, in consultation with the Human Resources Director, and based on the particular substance(s) involved, the relevant facts, the employee's overall work performance, prior disciplinary history, recommendation of the employee's supervisor, and nature of the position held.

- R. Any employee whose violation of this Policy does not result in dismissal from City employment shall, as a condition of continued employment, be required to enter into a *Return to Work/Last Chance Agreement* with the City in which the employee agrees to the following:

1. The employee will receive a mandatory referral for evaluation by a Substance Abuse Professional through the EAP or other approved substance abuse treatment and rehabilitation program and will participate in and successfully complete the EAP or other treatment/rehabilitation program as recommended by the SAP and mandated by the City;
  2. The employee will undergo a return-to-duty drug and/or alcohol test before returning to work;
  3. The employee will undergo unannounced follow-up drug and alcohol testing for a minimum of 36 months and a maximum of 60 months (as determined by the SAP, or the City (based on an SAP's recommendation where available), and memorialized in the Agreement);
  4. If the employee refuses to test, tests positive for the illegal use of drugs or the misuse of prescription or OTC drugs, has a .02 BAC or greater, fails to attend or withdraws from the EAP or other prescribed treatment/rehabilitation program, or otherwise fails to comply with the terms of the Agreement, the employee will be dismissed from City employment; and
  5. Additional criteria as determined by the circumstances and as memorialized in the Agreement.
- S. An employee who tests positive for drugs and/or alcohol, and who is not dismissed from City employment, will be placed on a leave of absence and required to participate in the EAP or other substance abuse rehabilitation and/or treatment program approved by the City. If the employee is required to attend a treatment/rehabilitation program, the employee's return to work may be conditioned on the determination by a substance abuse professional that the employee has successfully completed the program and is able to return to work.

The cost of any mandated treatment is the employee's sole responsibility and may be covered by the employee's health benefit plan. If the program requires time away from work, the employee may use accrued leave benefits; i.e., sick leave, vacation, etc., or may be approved to attend the program on unpaid leave status. Participation in the EAP and/or other substance abuse treatment/rehabilitation program is not a substitute for disciplinary action based on unsatisfactory job performance or violation of this Policy.

- T. Any employee who refuses or fails to participate in and/or successfully complete any City-mandated EAP or other approved substance abuse treatment/rehabilitation program will be dismissed from City employment.
- U. Any employee who tests positive for drugs and/or alcohol, and who is not dismissed from City employment, must submit to a return-to-duty drug and/or alcohol test before returning to work. An employee who has a positive return-to-duty drug and/or alcohol test (.02 BAC or greater) will be dismissed from City service.
- V. Any employee who violates this Policy more than one time within a seven-year period shall be dismissed from City employment.
- W. The City reserves the right to search all areas and property over which the City maintains full or joint control with the employee for the purpose of detecting alcohol or drugs. The search will be conducted only with the approval of the City Manager, Department Director, and Human Resources Director, and in accordance with all applicable legal requirements. The City will make a reasonable effort to contact the employee to have them present while searching the property in question. Areas in which the City maintains full control include, but are not limited to, all City-owned and leased properties and buildings and City-owned vehicles and equipment. Areas jointly controlled by the City and the employee include, but are not limited to, desks, lockers, file cabinets, office cabinets, and bookshelves. The City may notify the appropriate law enforcement agency if it believes an employee may have illegal drugs in his or her possession.

**X. EMPLOYEE SUPPORT AND REFERRALS**

- A. The City recognizes that alcohol and drug abuse and addiction are treatable illnesses and that early intervention and support improve the success of rehabilitation. Employees who may have an alcohol or drug problem are encouraged to voluntarily seek help, including using the EAP to assess and resolve the problem and to identify other sources of assistance.
- B. It will not be considered a violation of this Policy for an employee to self-refer to a treatment/rehabilitation program or to voluntarily disclose to the Human Resources Department, or a supervisor in his/her chain of command, that he/she has a substance abuse problem in accordance with Section VI of this Policy.

- C. Employees seeking treatment/rehabilitation may be eligible for family and medical leave. Employees should refer to the Family & Medical Leave Policy.
- D. The City is committed to providing reasonable accommodation to those employees whose drug and/or alcohol problem constitutes a disability under federal law, provided the employee does not currently engage in the illegal use of drugs and the disability does not prevent the employee from safely and effectively performing the essential functions of his/her job.

## **XI. CONFIDENTIALITY**

- A. The communications and information received by the City under this Policy are confidential records and will be maintained in a secure location with controlled access. They will be retained according to Federal and/or State law whichever is longer. Access to the information is limited to those who have a legitimate need to know in compliance with applicable federal and state laws and City policies.
- B. Any medical information obtained by the City as a result of this Policy is confidential and will be maintained in confidential medical files in the Human Resources office.
- C. Information received by the City related to drug and/or alcohol test results and the testing program may be disclosed as permitted by A.R.S. § 23-493.09, including in any proceeding related to an action taken by the City.

## **XII. EDUCATION, TRAINING, AND PROCEDURES**

- A. A safe and productive alcohol- and drug-free work environment is achieved through cooperation and shared responsibility between employees and management. In support of this Policy, and consistent with the federal Drug-Free Workplace Act of 1988, the City will:
  - 1. Distribute a copy of this Policy to all new employees during new employee orientation.
  - 2. Require all existing employees to review the revised Policy and sign an acknowledgement of understanding and acceptance of its terms.
  - 3. Publish this Policy on the City's intranet web page (Chanweb) and make hard copies available upon request for employees to review.
  - 4. Provide continued alcohol and drug awareness training for all City employees.
  - 5. Provide educational information which focuses on the potentially dangerous effects of drug and alcohol use and abuse, the procedures associated with drug screening and "reasonable suspicion" testing, and the effects on job

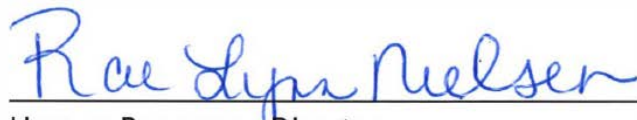
6. Train supervisors to recognize and document the indicia of impairment and the appropriate course of action to follow when an employee/individual may be impaired.
7. Provide information to employees on the availability of the EAP.
8. Require appropriate contract clauses relating to this Policy specifying alcohol- and drug-free workplace efforts expected of contractors, especially those receiving federal funds, and the City's expectations for compliance with this Policy.
9. Make a good faith effort to maintain an alcohol- and drug-free workplace.

**XIII. OTHER**


Nothing in this Policy shall be interpreted as a limitation on the City's ability to take disciplinary action, including dismissal from City employment, under the Personnel Rules when an employee has committed a violation of criminal drug laws or was arrested, charged, or convicted of driving under the influence (DUI).

**XIV. SUPERSESION**

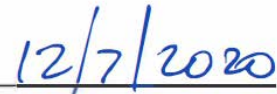
This Policy rescinds and supersedes the City of Chandler Drug-Free Work Environment Policy dated September 29, 2004



Human Resources Director



City Manager



Date